

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Enrolled - Revised

House Bill 1331  
Ways and Means

(Delegate A. Washington, *et al.*)

Education, Health, and Environmental Affairs

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Election Law - Cybersecurity

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This bill makes various changes to State election law relating to (1) reporting of election systems security violations; (2) requirements applicable to absentee voting; and (3) having paper or electronic backup copies of the election register available to election judges at polling places and early voting centers. **The bill takes effect July 1, 2018.**

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Fiscal Summary

**State Effect:** The bill can be implemented with existing resources.

**Local Effect:** The bill can be implemented with existing resources.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:**

*Reporting of Security Violations*

Within seven days after becoming aware of a security violation or a significant attempted security violation (both defined below), the State Administrator of Elections must submit to the Department of Information Technology (DoIT), the State Board of Elections (SBE), the Governor, the President of the Senate, the Speaker of the House, and the Attorney General, a report on each security violation and significant attempted security violation involving an election system (1) owned, operated, or maintained by SBE or a local board of elections or (2) provided, supported, or maintained by an election service

provider. Within seven days after receiving a report, DoIT must forward any additional relevant information to the State Administrator, SBE, the Governor, the President of the Senate, the Speaker of the House, and the Attorney General.

“Security violation” is defined as the incident categories defined by DoIT in the State information security policy.

“Significant attempted security violation” is defined as an attempt to commit a security violation that (1) is known to have been committed by a foreign government or agents of a foreign government or (2) the State Administrator considers to be of particular significance or concern.

Notwithstanding any other law, the Secretary of Information Technology may require that the information contained in a report be withheld from the general public if the Secretary determines that the public interest is served by withholding the information.

If an election service provider knows that a security violation or significant attempted security violation has occurred involving an election system provided, supported, or maintained by the election service provider, the election service provider must (1) notify the State Administrator in writing as soon as practicable but not later than four days after becoming aware of the security violation or significant attempted security violation and (2) cooperate with the State Administrator in submitting the report described above.

“Election service provider” is defined as any person providing, supporting, or maintaining an election system on behalf of SBE or a local board of elections, including a contractor or vendor.

“Election system” is defined as any information system used for the management, support, or administration of an election, including (1) the voting system; (2) the online voter registration system; (3) the voter registration database; (4) the online ballot request, delivery, or marking systems; (5) the electronic pollbooks; (6) the system for tabulating or reporting election results; and (7) the SBE or local board of elections email system.

### *Requirements Relating to Absentee Ballots*

The bill makes specified identification requirements, which are currently applicable to use of SBE’s online absentee ballot application, applicable to (1) use of the online absentee ballot application to request that an absentee ballot be sent by any method and (2) use of any method to request to receive a blank absentee ballot through the Internet. The bill also modifies the identification requirements to allow a voter with a disability, who does not have a Maryland driver’s license or Maryland identification card, to provide a Social Security number.

### *Paper or Electronic Backup Copies of Election Register at Voting Locations*

The bill requires that each polling place and early voting center have a paper or electronic backup copy of the election register available for the use of the election judges if computer devices containing a record of all registered voters in the county, that are required to be at each polling place, do not function properly during an election.

### **Current Law/Background:**

#### *Cybersecurity*

Increased attention has been paid to security of election systems as a result of cybersecurity threats to election systems that occurred in 2016. Efforts are being made at various levels of government to increase existing security of election systems in order to guard against future threats. Scrutiny of the security of Maryland's election systems, by the Office of Legislative Audits (in an SBE audit [report](#) issued in April 2017) and others, has revealed certain deficiencies that can be (or already have been) addressed by administrative and/or legislative action. For additional information, see [Issue Papers, 2018 Legislative Session](#), Department of Legislative Services, pgs. 217-220 ("Cybersecurity of Election Systems") (November 2017).

#### *Applying for an Absentee Ballot*

A voter may request an absentee ballot by completing and submitting:

- the SBE-approved absentee ballot application;
- a form provided under federal law;
- a written request that includes (1) the voter's name, residence address, and signature and (2) the address to which the ballot is to be mailed, if different from the residence address; or
- the accessible online absentee ballot application provided by SBE.

SBE's online absentee ballot application must require the applicant to provide (1) a Maryland driver's license number or a Maryland identification card number, the last four digits of the applicant's Social Security number, and other information identified by SBE that is not generally available to the public but is readily available to the applicant or (2) if the applicant is an absent uniformed services voter or overseas voter as defined under the federal Uniformed and Overseas Citizens Absentee Voting Act and does not have a Maryland driver's license or Maryland identification card, a Social Security number.

### *Methods of Receiving an Absentee Ballot*

Promptly after receipt of an absentee ballot application, an election director must review the application and determine whether the applicant qualifies to vote by absentee ballot. If the applicant qualifies to vote by absentee ballot, the local board of elections must provide the ballot to the voter by one of the following methods requested by the voter: (1) mail; (2) facsimile transmission; (3) the Internet; or (4) by hand during an in-person transaction.

### *Registered Voter Information at Polling Places*

“Election register” is defined under State election law as the list of voters eligible to vote (1) in a precinct on Election Day or (2) in a county early voting center during early voting. Election judges are required to use the election register in checking in, establishing the identity of, and verifying the address of voters at a polling place or early voting center.

State law also requires that each polling place be equipped with a computer device that contains a record of all registered voters in the county that is capable of being networked to other polling place computer devices.

SBE’s current contingency plan policy requires a paper copy of the election register to be supplied to each polling place and a computer backup election register to be supplied to early voting centers (with the option for counties with only one early voting center to provide a paper copy of the election register to the early voting center instead).

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Baltimore City; Frederick, Harford, Montgomery, and Wicomico counties; Department of Legislative Services

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