

HOUSE BILL 1379

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By: **Delegates Feldmark, Charkoudian, and Ebersole**

Introduced and read first time: February 7, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Multiple Ballots Cast by an Individual – Canvassing**

3 FOR the purpose of requiring a local board of elections to count an absentee ballot and
4 reject a provisional ballot if the local board receives a legally sufficient absentee
5 ballot and a provisional ballot from the same individual; repealing a requirement
6 that a local board reject a provisional ballot if the individual cast more than one
7 ballot for the same election; requiring a local board to reject a provisional ballot if
8 the individual also cast a legally sufficient absentee ballot; requiring a local board to
9 count a certain provisional ballot and reject any other ballot if the local board
10 receives multiple legally sufficient provisional ballots in different envelopes from the
11 same individual for the same election; requiring the State Board of Elections to adopt
12 regulations to ensure that, in certain situations, one ballot cast by an individual be
13 counted if the individual cast multiple legally sufficient ballots in the same election;
14 and generally relating to canvassing multiple ballots cast by an individual in the
15 same election.

16 BY repealing and reenacting, with amendments,
17 Article – Election Law
18 Section 11–302 and 11–303
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2019 Supplement)

21 BY adding to
22 Article – Election Law
23 Section 11–303.2
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Election Law**

2 11–302.

3 (a) Following an election, each local board shall meet at its designated counting
4 center to canvass the absentee ballots cast in that election in accordance with the
5 regulations and guidelines established by the State Board.

6 (b) (1) A local board may not open any envelope of an absentee ballot prior to
7 8 a.m. on the Wednesday following election day.

8 (2) A local board may not delay the commencement of the canvass to await
9 the receipt of late-arriving, timely absentee ballots.

10 (c) (1) An absentee ballot shall be deemed timely received if it is received in
11 accordance with the regulations and guidelines established by the State Board.

12 (2) An absentee ballot that is received after the deadline specified by the
13 regulations and guidelines may not be counted.

14 (d) (1) The State Board shall adopt regulations that reflect the policy that the
15 clarity of the intent of the voter is the overriding consideration in determining the validity
16 of an absentee ballot or the vote cast in a particular contest.

17 (2) A local board may not reject an absentee ballot except by unanimous
18 vote and in accordance with regulations of the State Board.

19 (3) The local board shall reject an absentee ballot if:

20 (i) the voter failed to sign the oath on the ballot envelope;

21 (ii) the local board received more than one ballot from the same
22 individual for the same election in the same ballot envelope; or

23 (iii) the local board determines that an absentee ballot is
24 intentionally marked with an identifying mark that is clearly evident and placed on the
25 ballot for the purpose of identifying the ballot.

26 (4) **(I)** If the local board receives more than one legally sufficient ballot,
27 in separate envelopes, from the same individual, the local board shall:

28 **[(i)] 1.** count only the ballot with the latest properly signed oath;
29 and

30 **[(ii)] 2.** reject any other ballot.

31 **(II) IF THE LOCAL BOARD RECEIVES A LEGALLY SUFFICIENT**

1 **ABSENTEE BALLOT AND A PROVISIONAL BALLOT FROM THE SAME INDIVIDUAL, THE**
2 **LOCAL BOARD SHALL:**

3 1. **COUNT THE ABSENTEE BALLOT; AND**

4 2. **REJECT THE PROVISIONAL BALLOT.**

5 (5) If the intent of the voter is not clearly demonstrated, the local board
6 shall reject only the vote for that office or question.

7 (6) If an absentee voter casts a vote for an individual who has ceased to be
8 a candidate, the vote for that candidate may not be counted, but that vote does not
9 invalidate the remainder of the ballot.

10 (e) At the end of each day of canvassing, a local board shall prepare and release
11 a report of the unofficial results of the absentee ballot vote tabulation.

12 11-303.

13 (a) Following an election, each local board shall meet at its designated counting
14 center to canvass the provisional ballots cast in that election in accordance with the
15 regulations and guidelines established by the State Board.

16 (b) A local board may not open an envelope of a provisional ballot until the local
17 board has approved the provisional ballot application.

18 (c) The State Board shall adopt regulations to implement this section.

19 (d) (1) A local board may not reject a provisional ballot except by unanimous
20 vote and in accordance with regulations of the State Board.

21 (2) The local board shall reject a provisional ballot if:

22 (i) pursuant to paragraph (4) of this subsection, the local board
23 determines that the individual who cast the provisional ballot is not qualified to vote that
24 provisional ballot;

25 (ii) the individual failed to sign the oath on the provisional ballot
26 application;

27 (iii) [the individual cast more than one ballot for the same election]
28 **THE INDIVIDUAL ALSO CAST A LEGALLY SUFFICIENT ABSENTEE BALLOT; or**

29 (iv) the local board determines that a provisional ballot is
30 intentionally marked with an identifying mark that is clearly evident and placed on the
31 ballot for the purpose of identifying the ballot.

1 (3) If the intent of the voter with respect to a particular contest is not
2 clearly demonstrated, the local board shall reject only the vote for that contest.

3 (4) For the purposes of this section, an individual is qualified to vote the
4 provisional ballot cast if the local board determines that:

5 (i) the individual is registered in the State;

6 (ii) if the provisional ballot was cast because the voter failed to
7 provide required identification, the individual who cast the provisional ballot has met the
8 identification requirements established by the State Board; and

9 (iii) if the provisional ballot was cast during a period covered by a
10 court order or other order extending the time for closing the polls, the order has not been
11 invalidated by a subsequent court order.

12 (e) (1) A local board shall count:

13 [(1)] (I) the entire provisional ballot if the address on the provisional
14 ballot application is within the precinct where the provisional ballot was cast; or

15 [(2)] (II) only the votes cast by the voter for each candidate or question
16 applicable to the precinct in which the voter resides, as determined by the address on the
17 provisional ballot application of the voter.

18 (2) IF A LOCAL BOARD RECEIVES MULTIPLE LEGALLY SUFFICIENT
19 PROVISIONAL BALLOTS IN DIFFERENT ENVELOPES FROM THE SAME INDIVIDUAL
20 FOR THE SAME ELECTION, AND NO OTHER BALLOTS FROM THAT INDIVIDUAL, THE
21 LOCAL BOARD SHALL:

22 (I) COUNT ONE PROVISIONAL BALLOT THAT HAS THE LARGEST
23 NUMBER OF CONTESTS IN WHICH THE INDIVIDUAL IS ELIGIBLE TO VOTE, BASED ON
24 THE INDIVIDUAL'S ADDRESS ON THE PROVISIONAL BALLOT APPLICATION; AND

25 (II) REJECT ANY OTHER BALLOT.

26 (f) (1) The State Board shall ensure the establishment of a system that any
27 individual who casts a provisional ballot may access without cost to discover whether the
28 ballot was counted and, if not counted, the reason it was not.

29 (2) The system established under paragraph (1) of this subsection shall
30 ensure the confidentiality of the individual who accesses the system and the secrecy of each
31 ballot.

32 11-303.2.

1 **THE STATE BOARD SHALL ADOPT REGULATIONS TO ENSURE THAT, IN ANY**
2 **SITUATION NOT EXPRESSLY PROVIDED FOR IN §§ 11-302 AND 11-303 OF THIS**
3 **SUBTITLE, ONE BALLOT CAST BY AN INDIVIDUAL BE COUNTED IF THE INDIVIDUAL**
4 **CAST MULTIPLE LEGALLY SUFFICIENT BALLOTS IN THE SAME ELECTION.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
6 1, 2020.