

# HOUSE BILL 428

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HB 369/21 – W&M

2lr1885

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By: **Delegate Rosenberg**

Introduced and read first time: January 20, 2022

Assigned to: Ways and Means

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Committee Report: Favorable

House action: Adopted

Read second time: March 3, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Election Law – Foreign Manufacture of Election Systems – Notification and**  
3 **Termination of Contract**

4 FOR the purpose of prohibiting the State Board of Elections from approving a contract with  
5 an election service provider unless the contract includes a clause requiring the  
6 election service provider to report to the State Administrator of Elections if any stage  
7 in the manufacturing of a component of the provider’s election system occurred  
8 outside the United States or if any material change to a component in any stage in  
9 the manufacturing of an election system occurred outside the United States;  
10 authorizing the State Administrator to terminate, in whole or in part, a contract with  
11 an election service provider under certain circumstances; and generally relating to  
12 foreign manufacture of election systems.

13 BY adding to  
14 Article – Election Law  
15 Section 2–110  
16 Annotated Code of Maryland  
17 (2017 Replacement Volume and 2021 Supplement)

18 Preamble

19 WHEREAS, On June 27, 2019, the U.S. House of Representatives passed H.R. 2722,  
20 the “Securing America’s Federal Elections Act” or the “SAFE Act”; and

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 WHEREAS, The SAFE Act would mandate numerous improvements in election  
2 security; and

3 WHEREAS, The SAFE Act would require election service providers to disclose  
4 whether any component of an election system was manufactured outside the United States;  
5 now, therefore,

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

8 **Article – Election Law**

9 **2–110.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
11 INDICATED.

12 (2) “APPROPRIATE PERSONS” MEANS:

13 (I) THE STATE BOARD;

14 (II) THE GOVERNOR;

15 (III) THE PRESIDENT OF THE SENATE;

16 (IV) THE SPEAKER OF THE HOUSE;

17 (V) THE ATTORNEY GENERAL; AND

18 (VI) THE DEPARTMENT OF INFORMATION TECHNOLOGY.

19 (3) “COMPONENT” INCLUDES ANY HARDWARE OR SOFTWARE  
20 COMPONENT.

21 (4) “CONTRACT” MEANS AN AGREEMENT IN ANY FORM ENTERED  
22 INTO BY A GOVERNMENTAL ENTITY FOR A PROCUREMENT AS DEFINED IN § 11–101  
23 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24 (5) “ELECTION SERVICE PROVIDER” MEANS ANY PERSON  
25 PROVIDING, SUPPORTING, OR MAINTAINING AN ELECTION SYSTEM ON BEHALF OF  
26 THE STATE BOARD OR A LOCAL BOARD, INCLUDING A CONTRACTOR OR VENDOR.

27 (6) “ELECTION SYSTEM” MEANS ANY INFORMATION SYSTEM USED  
28 FOR THE MANAGEMENT, SUPPORT, OR ADMINISTRATION OF AN ELECTION,  
29 INCLUDING:

- 1                   **(I) THE VOTING SYSTEM;**
- 2                   **(II) THE ONLINE VOTER REGISTRATION SYSTEM;**
- 3                   **(III) THE VOTER REGISTRATION DATABASE;**
- 4                   **(IV) THE ONLINE BALLOT REQUEST, DELIVERY, OR MARKING**  
5 **SYSTEMS;**
- 6                   **(V) THE ELECTRONIC POLLBOOKS;**
- 7                   **(VI) THE ELECTION MANAGEMENT SYSTEM; AND**
- 8                   **(VII) THE SYSTEM FOR TABULATING OR REPORTING ELECTION**  
9 **RESULTS.**

10                   **(7) “FOREIGN NATIONAL” INCLUDES:**

- 11                   **(I) AN INDIVIDUAL WHO IS A CITIZEN OF A FOREIGN COUNTRY;**  
12 **AND**
- 13                   **(II) AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A**  
14 **CORPORATION, AN ORGANIZATION, OR ANY OTHER COMBINATION OF INDIVIDUALS**  
15 **ORGANIZED UNDER THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN**  
16 **A FOREIGN COUNTRY.**

17                   **(B) THE STATE BOARD MAY NOT APPROVE A CONTRACT WITH AN ELECTION**  
18 **SERVICE PROVIDER UNLESS THE CONTRACT INCLUDES A CLAUSE REQUIRING THE**  
19 **ELECTION SERVICE PROVIDER TO REPORT TO THE STATE ADMINISTRATOR IF:**

20                   **(1) ANY STAGE IN THE MANUFACTURING OF A COMPONENT OF THE**  
21 **ELECTION SERVICE PROVIDER’S ELECTION SYSTEM OCCURRED OUTSIDE THE**  
22 **UNITED STATES; OR**

23                   **(2) ANY MATERIAL CHANGE TO A COMPONENT IN ANY STAGE IN THE**  
24 **MANUFACTURING OF THE ELECTION SERVICE PROVIDER’S ELECTION SYSTEM**  
25 **OCCURRED OUTSIDE THE UNITED STATES AT ANY TIME FOR THE DURATION OF THE**  
26 **CONTRACT.**

27                   **(C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION**  
28 **SHALL INCLUDE:**

1           **(1) THE SPECIFIC COMPONENTS OF THE ELECTION SYSTEM THAT**  
2 **WERE MANUFACTURED OUTSIDE THE UNITED STATES;**

3           **(2) THE FOREIGN NATION IN WHICH THE COMPONENTS WERE**  
4 **MANUFACTURED;**

5           **(3) A DESCRIPTION OF THE MANUFACTURING WORK PERFORMED**  
6 **OUTSIDE THE UNITED STATES; AND**

7           **(4) THE MEASURES TAKEN BY THE ELECTION SERVICE PROVIDER TO**  
8 **ENSURE THAT THE MANUFACTURING PROCESS IS SECURE.**

9           **(D) WITHIN 5 DAYS AFTER RECEIVING A REPORT UNDER SUBSECTION (B) OF**  
10 **THIS SECTION, THE STATE ADMINISTRATOR SHALL FORWARD A COPY OF THE**  
11 **REPORT TO THE APPROPRIATE PERSONS.**

12           **(E) ON A DETERMINATION BY THE STATE ADMINISTRATOR THAT A**  
13 **FOREIGN NATIONAL HAS THE ABILITY TO CONTROL, INFLUENCE, OR DIRECT THE**  
14 **MANUFACTURING OF AN ELECTION SYSTEM IN ANY MANNER THAT WOULD**  
15 **COMPROMISE OR INFLUENCE, OR GIVE THE APPEARANCE OF COMPROMISING OR**  
16 **INFLUENCING, THE INDEPENDENCE AND INTEGRITY OF AN ELECTION, THE STATE**  
17 **ADMINISTRATOR MAY TERMINATE, IN WHOLE OR IN PART, THE CONTRACT WITH THE**  
18 **ELECTION SERVICE PROVIDER.**

19           **(F) WITHIN 7 DAYS AFTER THE STATE ADMINISTRATOR EXERCISES THE**  
20 **AUTHORITY TO TERMINATE, IN WHOLE OR IN PART, A CONTRACT WITH AN ELECTION**  
21 **SERVICE PROVIDER UNDER SUBSECTION (E) OF THIS SECTION, THE STATE**  
22 **ADMINISTRATOR SHALL NOTIFY THE APPROPRIATE PERSONS IN WRITING OF THE**  
23 **TERMINATION OF THE CONTRACT AND THE STATE ADMINISTRATOR'S REASONS FOR**  
24 **TERMINATING THE CONTRACT.**

25           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
26 1, 2022.