

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

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TO: The Honorable Anne R. Kaiser
Chair, Ways and Means Committee

FROM: Office of the Attorney General

RE: HB 1228 – Election Law; Ballot Drop Boxes, Prohibited Acts – **Support**

The Office of Attorney General (the “OAG”) urges this Committee to favorably report HB 1228.

The 2020 elections saw the use of ballot drop boxes for the first time in Maryland statewide elections. These proved to be enormously popular among voters, and their use is likely to expand in future elections. However, while various criminal laws prohibit conduct relating to destroying, defacing or otherwise tampering with voting and election records,¹ voting devices or equipment,² or other “equipment or supplies placed in a polling place by election officials ruining an election,”³ the code does not specifically proscribe such conduct as it relates to ballot drop boxes. While it is likely that some of the current prohibitions could be interpreted to extend to damaging, defacing, removing, or accessing (without authorization) ballot drop boxes, HB 1228 would eliminate any ambiguity in that regard by making it a crime to “remove, deface, damage, destroy, or prevent the correct operation of a ballot drop box,” or “unlock any locked compartment of a ballot drop box” without authorization.⁴

¹ See, e.g., Md. Code Ann., Elec. Law §§ 16–206(a)(7) (removing a ballot, without authorization, from a building in which voting occurs), 16-302(a) (tampering with election records), 16–701(b) (destroying, defacing or removing any record related to voting, without authorization).

² See, e.g., Elec. Law §§ 16–206(a)(5) (accessing the locked compartment of a voting device without authorization), 16–801(a) (damaging or destroying voting equipment used or intended to be used on the day of election), 16–802(a) (tampering with, damaging or attempting to damage voting equipment that is used or will be used in an election), 16–804(a) (tampering with the electronic voting system).

³ Elec. Law § 16–803(a).

⁴ H.B. 1228 §§ 16–805(B)(1)–(2), 2021 Leg., 422d. Sess. (Md. 2021).

In addition, the penalties for violating the new prohibitions are commensurate with existing penalties for destroying or tampering with voting equipment, crimes of similar gravity with regard to threatening the integrity of the election. In both cases, persons who violate these provisions are “guilty of a felony and . . . subject to a fine of not more than \$10,000 or imprisonment for not more than 3 years or both.”⁵

For the foregoing reasons, the Office of the Attorney General urges a favorable report on House Bill 1228.

cc: Members of the Ways and Means Committee

⁵ Compare Elec. Law §§ 16-801(b), 16-802(b) (destroying or tampering with voting equipment), with H.B.1228 § 16-805(c).