

My name is David Naimon and I'd like to thank you, Chair Brian Feldman and Vice Chair Cheryl Kagan, for the opportunity to testify today. As you know, I'm the Secretary (and Democratic Leader) of the Montgomery County Board of Elections but I'm testifying today only on my own behalf as an individual.

Senate Bill 864 addresses some very important issues for election officials, including the growing national prevalence of threats against election officials and the effect of the increase in web-delivered mail-in ballots on the ability of local Boards of Elections in Maryland to count those ballots. I'd like to thank Senator Kagan for being a leader on election law issues in general and on these specific issues in particular, and to suggest some amendments that I think would help to accomplish our shared goals.

1. The bill would make it a crime to threaten a county election director (p. 3, lines 11-12), but I urge you to make the law much broader, and protect not only elected officials and election directors but *all election officials*. I suggest making it a crime to threaten not only the election director, but also any state, county, or municipal employee who performs election duties, any election judge, any member or staff of the State or local Board of Elections, and anyone who assists us in canvassing the ballots. Addressing the safety of those involved in elections will help us recruit election workers, reduce anxiety, and promote democracy. Making it a crime to threaten all election workers is a good start to assuring that safety.
2. I don't understand the purpose of the language on p. 14, lines 6-15 – we in Montgomery County have never (to my knowledge) rejected a ballot for “a tear, a fold, a food spill, or an errant punctuation mark.” Those all would be reasons to duplicate the ballot, but I can't imagine that those are considered “identifying marks” that must be rejected. The language appears to allow us to accept ballots with initialed changes if they weren't for the purpose of identifying the ballot, which I appreciate but we can do that under current law.
3. I agree with the bill's premise that web-delivered ballots are difficult to vote, difficult to send to us, and difficult and time-consuming to count. We use a modern technology to send voters the ballot, an old technology to get the ballots returned, and an ancient technology to hand-duplicate them. However, as I said briefly to the Committee last week, I don't think it's fair to limit methods of voting for some voters and not others, and I don't think having Board of Elections staff prohibiting or limiting the use of web-delivered ballots is the answer.
  - a. If you don't require *proof* of the conditions listed in the bill, they may be largely meaningless, but if you *do* require proof, you'll be asking already overburdened election officials, who are not trained in medical matters, to determine if a disabled person “is unable to mark a ballot independently by hand,” if a voter is having a “medical emergency” or is hospitalized (the bill doesn't say how close to the election it would have to be, and such medical issues are frequently hard to predict), whether a “travel commitment” is “unforeseen” and “short-notice” (if I invite someone to travel with me tomorrow to a vacation in a warmer climate, that would appear to qualify), or whether a voter would be “unable to vote” if they couldn't get a web-delivered ballot.
  - b. Proving that someone “would be unable to vote” if they didn't get a web-delivered ballot would be difficult, given all of the ambiguities of the process (including the performance of the USPS and the sometimes two weeks it took for U.S. mail ballots to arrive after being requested).

- c. Another category of voters who may need web-delivered ballots are those whose ballots were returned by USPS to the Board of Elections with the yellow stickers indicating that the ballots were undeliverable – sometimes this is because the address was incorrect, or because some universities have unusual addresses for their dorms.
  - d. These limitations would be very difficult to police, would be a record-keeping nightmare (would we need to hold onto doctors’ notes about the voters’ need for a web-delivered ballot?) and could easily lead to the perception or the reality that some voters are treated better than others.
4. What would I do?
- a. I would require voters who request web-delivered ballots online to acknowledge each step they’d need to follow for these ballots before moving to the next step, and would also give them a chance to switch to U.S. mail ballots at every step. This could include that you need to:
    - i. Have access to a working printer with ample toner/ink and paper
    - ii. Make sure you have an envelope, and address it to the correct return address
    - iii. Make sure you include the oath in the envelope (and that curing this may not be possible because election officials may not open the envelopes in time)
    - iv. Make sure you have postage or access to a drop box
    - v. Know that your ballot will be hand-duplicated by a bipartisan team, and that will lengthen the time before final results are known.
  - b. We currently have 14,000 Montgomery County voters on the permanent mail-in ballot list to receive *web-delivered* ballots for *every* future election, and there are many more around the state. I’d suggest sending each of them an email, mailing, and/or text asking them some version of “Are you sure?” with some of the information I just mentioned.
5. The language on p. 15, lines 14-15 appears to ONLY allow a contractor to send ballots 47 or more days before an election. Sending out ballots is not a one-time activity, and I’d be concerned that the implication of this language might be that Board of Elections staff would need to send the ballots themselves if it’s 46 days or fewer. That would require much more resources than any of us have (our staff currently does the mailing during the last 3-4 days before the election, but it’s a stress even then).
- a. Also, current federal law requires ballots to be mailed to military and overseas voters by 45 days before the election, and those are typically the first ballots mailed. This provision seems to require the contractor to mail all of the ballots two days before the normal start date.
6. The bill on p. 18, lines 17-18 makes the assertion that “voting by mail is the most efficient absentee voting method.” I would argue that our drop box collections are more efficient than USPS collections, and that U.S. mail delivery of ballots is not the most efficient method if the voter waits more than two weeks (as many did in 2022) after they request it for the ballot to arrive. I’d suggest that this language (as well as the language on lines 19-20) be changed as I indicated above to provide strategies for educating voters on what’s involved in voting and counting web-delivered ballots, without declaring to voters what would be most efficient.
7. I totally agree with the goal of the language on p. 18, lines 29-30 calling for analysis of the reasons voters cast provisional ballots. I’d suggest deleting “from the electronic poll books” on line 29, as some of the data about provisional ballots would not be found in the pollbooks but would be available elsewhere.

Thank you for the opportunity to present these concerns to you, and I’d be happy to respond to any questions you may have.