

IL Written Testimony SB 802 of 2024.pdf

Uploaded by: Chris Kelter

Position: FAV



Senate Bill 802: Election Law – Voters With Disabilities – Electronic Ballot Return

Testimony of Maryland Centers for Independent Living

SUPPORT

Senate Education, Energy, and the Environment Committee, February 21, 2024

Centers for Independent Living (CIL) are created by federal law. CILs work to enhance civil rights and community services for people with disabilities. There are seven CILs throughout Maryland, operated by and for people with disabilities. At least 51% of CIL staff and Board are people with disabilities. CILs provide Information and Referral, Advocacy, Peer Support, Independent Living Skills training, and Transition Services to individuals in their communities. Housing services are provided by CILs and are a critical element of independent living.

When the Americans with Disabilities Act (ADA) was signed 31 years ago, it provided historic civil rights protections for disabled Americans and provided the four core outcomes of full participation, equal opportunity, independent living, and economic self-sufficiency. Full participation should include disability inclusive democracy. Americans with disabilities still face barriers in fully participating in many aspects of their lives including participation in democratic elections.

SB 802 would permit individuals with disabilities to return a marked absentee ballot to a local election board electronically, as specified in the bill.

The removal of any barrier to participating in the democratic process would permit more people with disabilities to participate in democratic elections by allowing them to exercise their right to vote. Expanding the means by which a person with a disability could return a marked absentee ballot would permit greater access in exercising their right to vote without navigating barriers that would otherwise limit their ability to participate in elections.

Allowing Marylanders with disabilities to return marked absentee ballots electronically would increase participation in the democratic process. Disability inclusive democracy is good for all Marylanders.

The Maryland Independent Network strongly **supports** SB 802 and urges a **favorable** report.

We appreciate the consideration of these comments.

For further information contact:

Chris Kelter, Executive Director
Accessible Resources for Independence
443-713-3914
ckelter@airnow.org

SB 802 Electronic Voting- The Arc POG_ FWA.pdf

Uploaded by: Ande Kolp

Position: FWA



People On the Go of Maryland and The Arc Maryland

SB 802

**Election Law - Voters with Disabilities -
Electronic Ballot Return
Education, Energy, and the Environment Committee**

Requiring the State Board of Elections to establish a process by which an individual with disabilities may return a marked absentee ballot to a local board of elections electronically.

Position: Support with Amendments

February 21, 2024

Written by Mat Rice

People On the Go of Maryland

Honorable Chairperson, and distinguished members of the Senate Education, Energy and the Environment Committee:

People On the Go of Maryland (POG) is a statewide self-advocacy organization, ran for and by those with intellectual and/or developmental disabilities (IDD), and our mission is to promote self-advocacy throughout the state.

The Arc Maryland is a statewide advocacy organization that is dedicated to protecting and advancing the rights of individuals with IDD, and supporting people and their families to thrive.

In coordination with The Arc Maryland, we offer this joint written testimony regarding SB 802.

Both organizations, People On the Go of Maryland and The Arc Maryland, believe in promoting the civil rights of all people with disabilities, regardless of the level of support someone may need, to participate in community or civic life. There is no greater aspect of that civic life than a person's ability to exercise their right to vote.

We appreciate the Sponsors of this bill for bringing the option of an electronic ballot forward. We believe SB 802 will make it easier for people with disabilities to exercise their right to vote, because they will not have to vote in person.

Voters will be able to receive, complete, and save their ballot electronically and then physically return the ballot saved on a flash drive (or other digital storage device) provided by the State Board of Elections. The amendments will make electronic ballot voting accessible for those who need an accommodation and also ensure that individuals with disabilities maintain their right to ballot secrecy.

With these changes made, Maryland will be a more inclusive state, and people will be able to exercise their right to vote with greater autonomy than ever before.

With these changes, People On the Go Maryland and The Arc Maryland respectfully advise a favorable report for SB 802 as amended.

Thank you for your consideration. Should you have any questions. Please contact Mat Rice.

Thank you,
Mat Rice, Executive Director, M: 410-925-5706
E: mat@pogmd.org

SB802_Brooks.pdf

Uploaded by: Benjamin Brooks

Position: FWA

BENJAMIN BROOKS
Legislative District 10
Baltimore County

Education, Energy, and the
Environment Committee
Energy Subcommittee

Chair, Joint Electric Universal
Service Program Workgroup



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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TESTIMONY IN SUPPORT OF SB802
Election Law- Voters with Disabilities – Electronic Ballot Return

Education, Energy and the Environment Committee
February 21, 2024

Chair Feldman, Vice-Chair Kagan and Members of the Committee,

Thank you for the opportunity to testify in favor of SB802, Election Law – Voters With Disabilities – Electronic Ballot Return. The purpose of this bill is to require the State Board of Elections (SBE) to establish a process by which an individual with disabilities may return an electronically marked ballot to a local board of elections using an accessible, non-paper-based method. Participation in the electoral process should be simple and accessible to all eligible voters. Maryland claims that it wishes to make casting the ballot as easy as possible for the voter to maximize participation in the voting process. SB802 can help Maryland become one step closer in accomplishing that goal.

Currently, Marylanders may vote in person or by mail. Voters may submit a permanent request so that they automatically receive an absentee ballot each election. After the ballot is submitted, election officials can inform the voter that their ballot was received by SBE in several ways. The voter selects these methods of contact and can even be notified by text message. While these technological advances have improved the voting process, more needs to be done to ensure that all voices are heard.

Maryland lacks an electronic ballot return system, creating an obstacle for disabled voters who want to cast their ballot. Currently, an estimated 235,930 voters or 3.8% of Maryland's population have a disability which may affect their ability to fill out a paper ballot or return a ballot on election day. This number is too large to be ignored and we should not disenfranchise an entire population solely based on their disability.

People with print disabilities must return their ballot at the cost of losing privacy and ballot secrecy. Their ballot can be marked online but must be printed and signed before it can be sent by mail or dropped in a ballot box. They require assistance from another person in finding where to sign their ballot and preparing it for delivery by mail or drop box. Those who assist disabled voters can see for whom the vote was casted, which is inconsistent with voter privacy and independence principles. In addition, because their ballots are neither private nor independent, they are susceptible to tampering and suspicious altering inconsistent with the voter's preferences.

Thirteen states allow disabled voters to submit their ballots electronically either through email, fax, or a secure web portal. However, in January 2024, the Department of Legislative Services released some concerning findings regarding the security of these electronic ballot returns. While online electronic ballot return systems may improve voting accessibility for those with print-reading disabilities, there are still many security concerns with online voting. I am a staunch believer that our elections should be safe from any interference, and I have considered this reality heavily when drafting this amended legislation.

SB802, as amended, requires SBE to develop ways for disabled voters to receive, mark, and return electronically marked ballots without internet exposure. Marked ballots would be returned in a secure physical form, either with a flash drive or some other physical electronic media. In fact, the bill specifically requires SBE to not have ballots transmitted over the internet until this method is deemed safe and secure. Additionally, SBE will also develop these regulations with stakeholder input from the disability community to ensure that these new methods are accessible as well as secure.

Election integrity is not just about protecting the ballot box from interference— it is also about ensuring the right to vote for Marylanders. Voters with disabilities, in particular, are subject to security threats now, as their inability to vote privately and independently requires the assistance of others who can tamper with their ballots.

SB802 balances these two realities to ensure that tens of thousands of disabled Marylanders can vote securely and secretly while maintaining the integrity of the electoral process. There does not need to be a trade off when it comes to making our elections secure and accessible, for all. We can and we must do both.

For these reasons, I am requesting a favorable report on SB802.

With kindest regards,

A handwritten signature in cursive script that reads "Benjamin T. Brooks".

Benjamin Brooks

SB 802.DDCouncil.Support If Amended.pdf

Uploaded by: Rachel London

Position: FWA



**Maryland Developmental
Disabilities Council**

CREATING CHANGE • IMPROVING LIVES

**Senate Education, Energy, and the Environment Committee
SB 802: Election Law - Voters With Disabilities - Electronic Ballot Return
February 21, 2024
Position: Support, if amended**

The Maryland Developmental Disabilities Council (Council) is an independent, public policy organization that creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. Our vision is that people with and without disabilities in Maryland live, learn, work, and play together.

The Council supports SB 802 if amended. We understand the cross-filed bill (HB 775) sponsor has amendments to clarify that voters with disabilities can request electronic ballot return as a reasonable accommodation in the voting process. The amendments further clarify the electronic ballot return process includes receiving, completing, and saving a ballot electronically and then physically return the ballot saved on a flash drive (or other digital storage device) provided by the State Board of Elections.

WHAT does this legislation do?

- SB 802 requires the State Board of Elections to develop a process for people with disabilities to return a marked absentee ballot electronically to the local board of elections.
- This bill defines a person with disabilities as “individual with disabilities, as defined in the Americans with Disabilities Act” (page 2, lines 20-21). This means the electronic absentee ballot submission process would be for people with disabilities requesting it as an accommodation to support their participation in the election.

WHY is this legislation important?

- Voting is a fundamental right that Maryland’s citizens with developmental disabilities want and need to access.
- People with disabilities disproportionately experience barriers when voting¹. For example, voters with disabilities are more likely to report difficulties waiting in line and getting inside the polling place than those without disabilities.
- Researchers have found that with more accessible voting options available in the 2020 election, 62% of people with disabilities voted (a six-point increase over 2016)². Additional methods to increase accessibility may allow even more people with disabilities who vote.
- Twelve states already introduced electronic ballot return.

This is another important step to ensure people with developmental disabilities have the access and opportunity to exercise their fundamental right to vote. **For that reason, the Council supports SB 802.**

Contact: Dr. Stephanie Dolamore, Deputy Director, SDolamore@md-council.org

¹ https://www.eac.gov/sites/default/files/2023-07/EAC_2023_Rutgers_Report_FINAL.pdf

² https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf

SB 802

Uploaded by: Ronza Othman

Position: FWA

Subject: Favorable with Amendments SB802 Accessible Electronic Ballot Return System for Voters

Date: 2/21/2024

To: Senate Education, Energy, and Environment Committee

From: Members of the National Federation of the Blind of Maryland

National Federation of the Blind of Maryland

15 Charles Plaza, #3002

Baltimore, MD 21201

Phone: 443-426-4110

Email: President@nfbmd.org

THE PROBLEM

The current by mail ballot return process in Maryland is a paper-based system that discriminates against blind voters and those with other print disabilities. Maryland's system strips these voters of their right to vote privately and independently and has the impact of disenfranchising voters.

PROPOSED ACTION

The Senate Education, Energy, and Environment Committee must pass the amended version of SB802 that requires the Maryland State Board of Elections to establish an accessible electronic ballot return process for voters with disabilities for use beginning the 2026 primary election.

BACKGROUND

Maryland voters have many choices when casting their ballot. They may vote in person or vote by mail. Voters may submit a permanent request so that they automatically receive a by mail ballot each election. After the ballot is submitted, the election officials can inform the voter that their ballot was received by the Board of Elections in several ways. The voter selects these methods of contact and can even be notified by text message. While these technological advances have improved the voting process, more needs to be done in order to ensure all voices are heard. For example, the state of Maryland lacks an accessible electronic ballot return system, requiring blind and low-vision voters and those with print disabilities to need assistance printing, signing and certifying, and mailing in or dropping off their ballots. As a result, the voter's privacy and independence are compromised, meaning others see the voter's choices and can even alter the voter's selections without their knowledge.

People with print disabilities must return their ballots at the cost of losing privacy and ballot secrecy. The ballots can be marked online but must be printed and signed before it can be sent by mail or dropped in a ballot box. Many people have no access to a printer, so they must have someone else print their ballot. They require assistance from another person in finding where to sign their ballot and preparing it for delivery by mail or by drop box. Those who assist them are able to see — and even alter — for whom the voter voted, which is inconsistent with voter privacy and independence principles and compromises the security of these voters' ballots.

Thirteen states currently have electronic ballot return systems in place for voters with disabilities, including: Alaska, Colorado, Delaware, Hawaii, Indiana, Louisiana, Maine, Massachusetts, North Carolina, North Dakota, Rhode Island, Utah, and West Virginia. In addition, 33 states and territories offer electronic ballot return for military and overseas voters, including: Alabama, Alaska, Arizona, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Utah, Virgin Islands, Washington, and West Virginia.

Opponents of electronic ballot return cite security concerns as the reason why Maryland should not establish such a system. However, 33 states and territories operate such a system, some of them for well over a decade, and there have been no security breaches. Moreover, voters with disabilities who cannot, without assistance, read, sign, certify, or submit a paper ballot due to their disabilities are themselves vulnerable to having their ballots changed without their knowledge or consent; consequently, forcing people with disabilities to vote by paper achieves the same vulnerability for disabled voters in terms of security that opponents argue is the obstacle to implement such a system. In fact, electronic ballot return is far more secure for voters with disabilities than paper ballots because safeguards will be in place to prevent outside interference with those ballots.

CONCLUSION

In order to ensure voters with disabilities have access to a private, independent, and secure ballot, the Maryland General Assembly must pass legislation directing the Maryland State Board of Elections to establish an accessible electronic ballot return system for use beginning the 2026 primary election. The amended version of SB802 also requires that the Maryland State Board of Elections issue regulations that will create an electronic return media and the necessary envelope to mail in this media. This will remedy the security concerns, lack of privacy and independence that such voters face when using the vote by mail process. It will also resolve the lack of security that these voters face due to the number of hands and eyes to which their ballots are exposed during the printing, signature and certification, and submission process. Maryland cannot sacrifice disabled voters' civil rights based on some nebulous, unproven, and overblown fear about security. Please vote in favor of the amended HB775 and show your support for the civil rights of persons with disabilities.

MD SB802 2024 written VV.pdf

Uploaded by: C.Jay Coles

Position: UNF

February 20, 2024

Maryland State Senate
Education, Energy, and the Environment Committee
Maryland State House
100 State Circle
Annapolis, MD 21401

RE: Verified Voting Urges Rejection of Senate Bill 802

Dear Chair Feldman and Committee Members,

On behalf of Verified Voting, I write in opposition to Senate Bill 802, which would allow electronic return of voted ballots. Verified Voting is a nonpartisan nonprofit organization whose mission is to strengthen democracy for all voters by promoting the responsible use of technology in elections. Since our founding in 2004 by computer scientists, we have acted on the belief that the integrity and strength of our democracy rely on citizens' trust that each vote is counted as cast. With this in mind we oppose allowing voted ballots to be returned electronically through insecure means.

Four federal government agencies have concluded in a recent risk assessment that electronic ballot return is "High" risk, even with security safeguards and cyber precautions in place. The agencies warn that **electronic ballot return "faces significant security risks to the confidentiality, integrity, and availability of voted ballots," and that these risks can "ultimately affect the tabulation and results and can occur at scale,"** and explicitly recommends paper ballots.¹ The risk assessment was issued by the Federal Bureau of Investigation (FBI), the Department of Homeland Security's Cybersecurity Infrastructure Security Agency (CISA), the U.S. Elections Assistance Commission (EAC) and the National Institute for Standards and Technology (NIST).

At a time where the integrity and veracity of election results are continuously called into question, it would not be prudent to ignore the security warning issued by the four government agencies charged with protecting our nation's election infrastructure.

We recently learned that "the F.B.I., working with other countries, disrupted a Russian hacking operation that infiltrated more than 1,000 home and small-business internet routers in the United States and around the world."² This is just another example, in a long string of examples, of how the U.S. is under persistent threat from bad actors attempting to disrupt our critical infrastructure, including election infrastructure, and must be ever vigilant in pushing back on such actions.

¹ U.S. Cybersecurity and Infrastructure Security Agency, Federal Bureau of Investigation, National Institute of Standards and Technology and the U.S. Election Assistance Commission, Risk Management for Electronic Ballot Delivery, Marking, and Return, available at

<https://www.cisa.gov/resources-tools/resources/risk-management-electronic-ballot-delivery-marking-and-return>.

² See <https://www.nytimes.com/2024/02/15/us/politics/hacking-russian-intelligence-routers.html>.

In late 2022, a blue ribbon panel convened by the University of California, Berkeley’s Center for Security in Politics concluded that creating standards for online ballot return, so that it can be done securely and privately, was not feasible. “When internet ballot return is employed,” the Working Group wrote, “it may be possible for a single attacker to alter thousands or even millions of votes. And this lone individual could perpetrate an attack from a different continent from the one where the election is being held – perhaps even while under the protection of a rogue nation where there is no concern of repercussions.”³

Attached as a part of my testimony is a report that was given to the House Ways and Means Committee by the Maryland Department of Legislative Services. The report is about the accessibility and security of electronic ballot return. While potential benefits might exist, I think it is clear from the report that **electronic ballot return in any form is not ready for use in Maryland; the security risks are simply too high.**

We would welcome the opportunity to provide you—or other lawmakers—further information about the technical aspects and unavoidable and severe inherent risks of electronic ballot return because we understand the profound challenges you as representatives of the people face to assure every voter’s ability to cast their secure, secret and verifiable ballot.

At a time when election security and public confidence are under relentless attack, Maryland should not rely on insecure technology for voters that produces unprovable election results. Again, we urge you to vote “no” on SB 802 and reject any other proposal that includes electronic return of voted ballots.

Respectfully submitted,

C.Jay Coles
Senior Government Relations Associate

³ Casting Votes Safely: Examining Internet Voting’s Dangers and Highlighting Safer Alternatives, available at <https://verifiedvoting.org/wp-content/uploads/2023/10/VerifiedVoting-CastingVotesSafely-2023-FIN.pdf>

w&m - 133510984889033568 - Electronic Ballot Retur

Uploaded by: C.Jay Coles

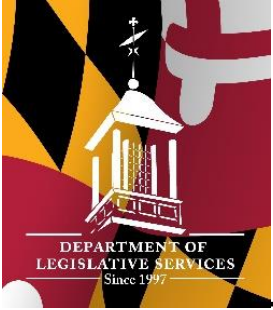
Position: UNF

Electronic Ballot Return

**Presentation to the
Ways and Means Committee**

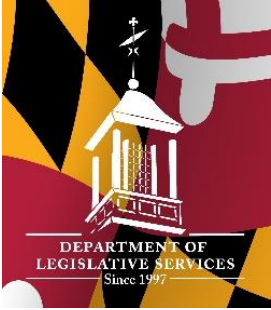


January 30, 2024



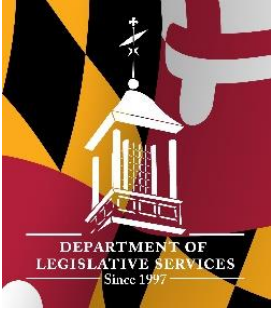
Outline of Presentation

- I. What is electronic ballot return?
- II. Military and overseas voters and voters with disabilities
- III. Electronic ballot return in other states
- IV. Litigation concerning electronic ballot return
- V. Potential advantages of electronic ballot return
- VI. Potential disadvantages of electronic ballot return
- VII. Alternatives to electronic ballot return



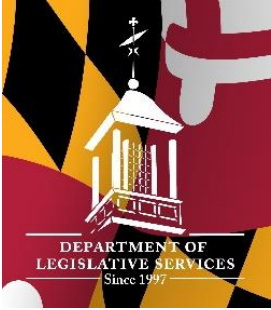
What Is Electronic Ballot Return?

- It is the return of voted ballots to election officials by electronic methods, usually through the Internet.
- Electronic ballot return is distinct from the use of electronic methods to deliver blank ballots to voters.
- Maryland allows all voters to receive and mark blank ballots electronically.
- Maryland does not allow any voters to return voted ballots electronically.
- In Maryland, ballots received or marked electronically must be printed out and mailed to election officials to be counted.



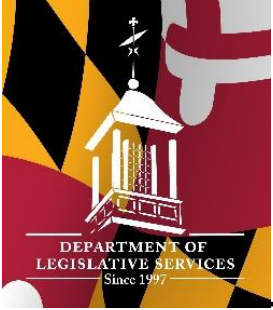
Military and Overseas Voters





Military and Overseas Voters

- The federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) helps military and overseas voters cast ballots in federal elections.
- UOCAVA applies to (1) members of the United States Uniformed Services and merchant marine while they are away from home on active duty and their spouses and dependents, and (2) United States citizens residing outside the United States.
- Among other things, UOCAVA requires that military and overseas voters have the option to receive blank absentee ballots electronically.
- UOCAVA does not require states to allow a military or overseas voter to return a voted ballot electronically.



Military and Overseas Voting in Maryland

2020

Total of 21,593 ballots
returned

6,879 military

14,714 civilian

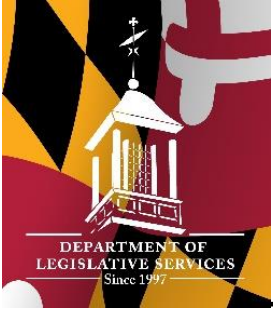
2022

Total of 4,763 ballots
returned

926 military

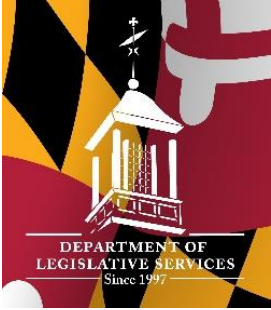
3,837 civilian

Source: U.S. Election Assistance Commission



Voters with Print Disabilities

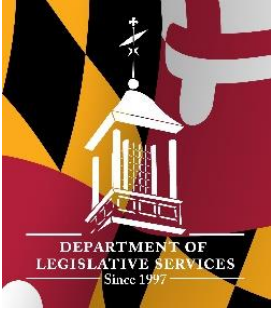




What Is a Print Disability?

- Individuals who are unable to read or use regular print materials as a result of temporary or permanent visual or physical limitations.
- This includes those who are blind or have another disability that prevents reading or handling print materials.





Individuals with Potential Print Disabilities in Maryland

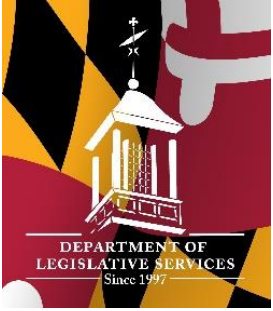
Vision Disability	118,299 (2.0%)
Self-care Disability	117,631 (1.9%)

(% = percentage of State population)

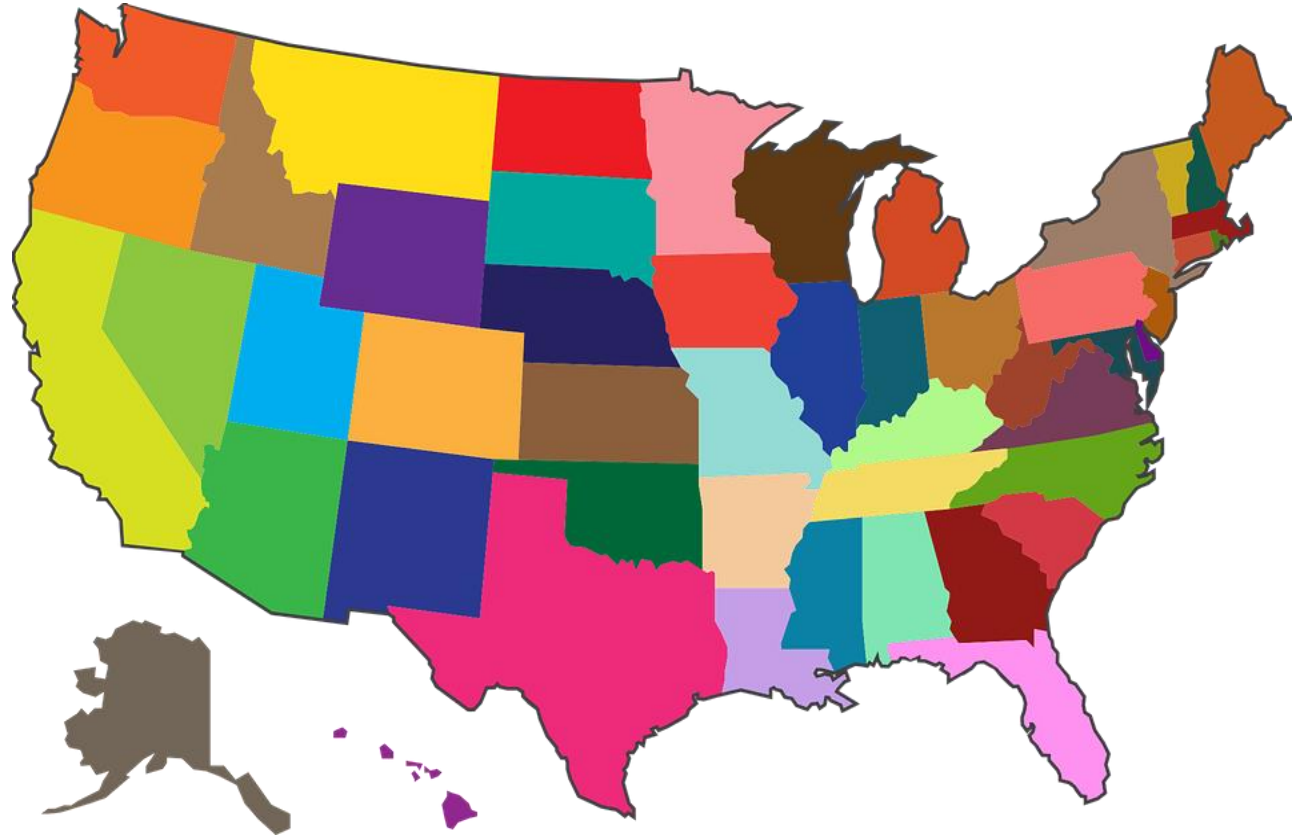
Vision Disability: Blind or serious difficulty seeing, even when wearing glasses.

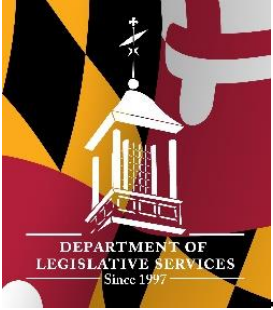
Self-care Disability: Difficulty bathing or dressing.

Source: Disability Compendium, 2021 American Community Survey

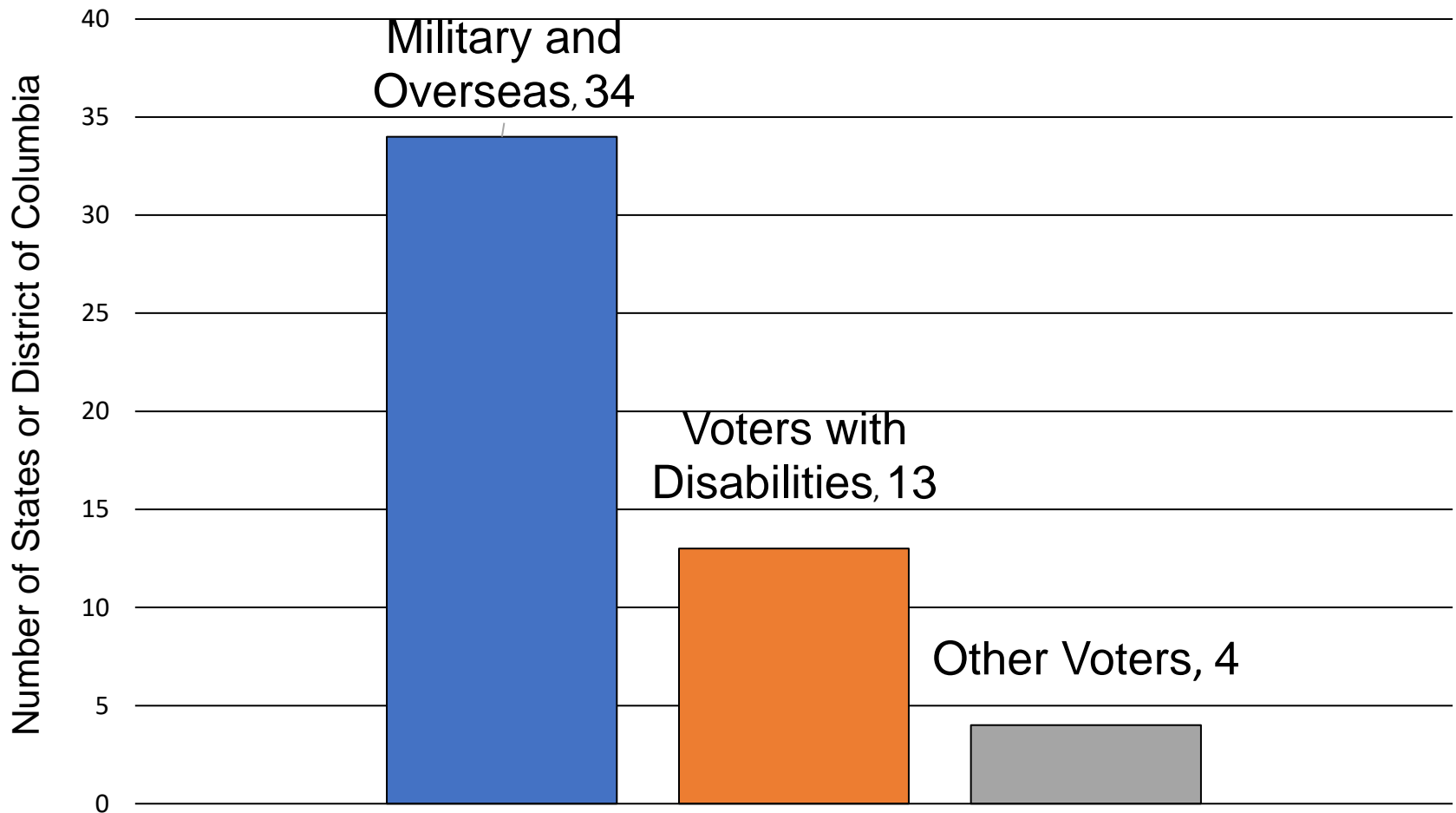


Electronic Ballot Return in Other States

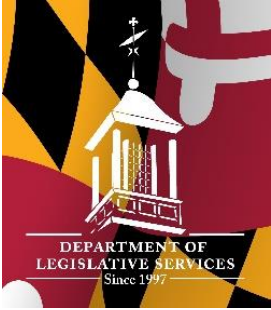




Eligibility for Electronic Return



Source: National Conference of State Legislatures, Department of Legislative Services



Methods of Electronic Ballot Return

I. Fax

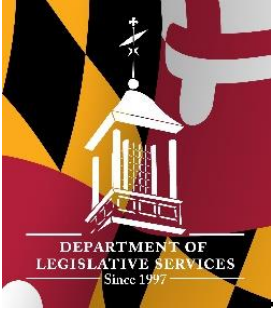
A fax may be sent through traditional telephone lines or through the Internet.

II. Email

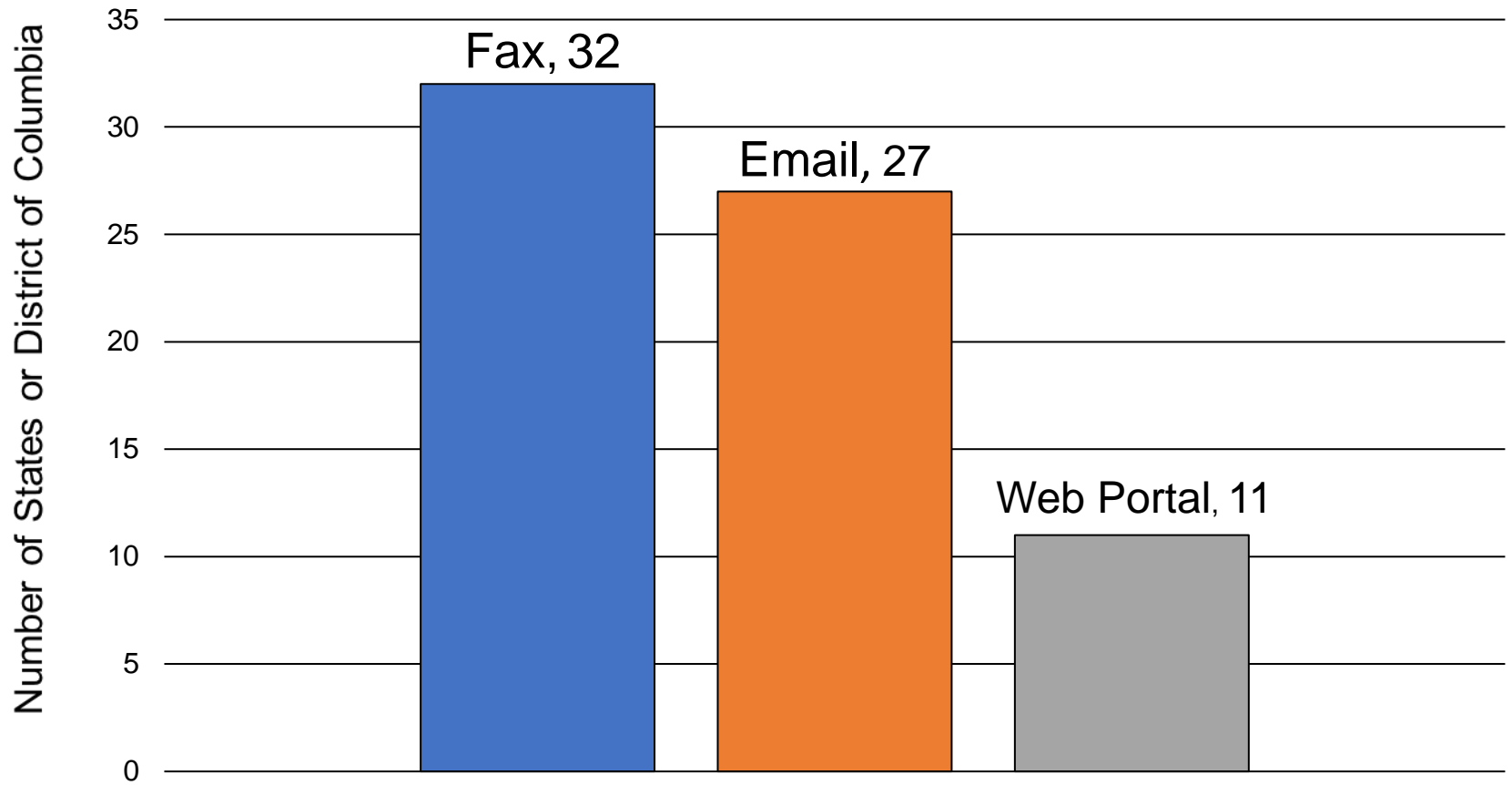
The voted ballot and any accompanying documents are returned as email attachments.

III. Web Portal

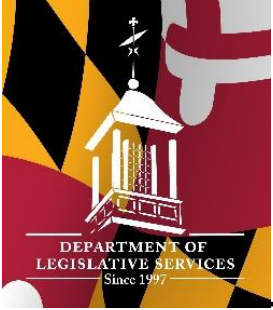
A publicly accessible web-based application for returning voted ballots.



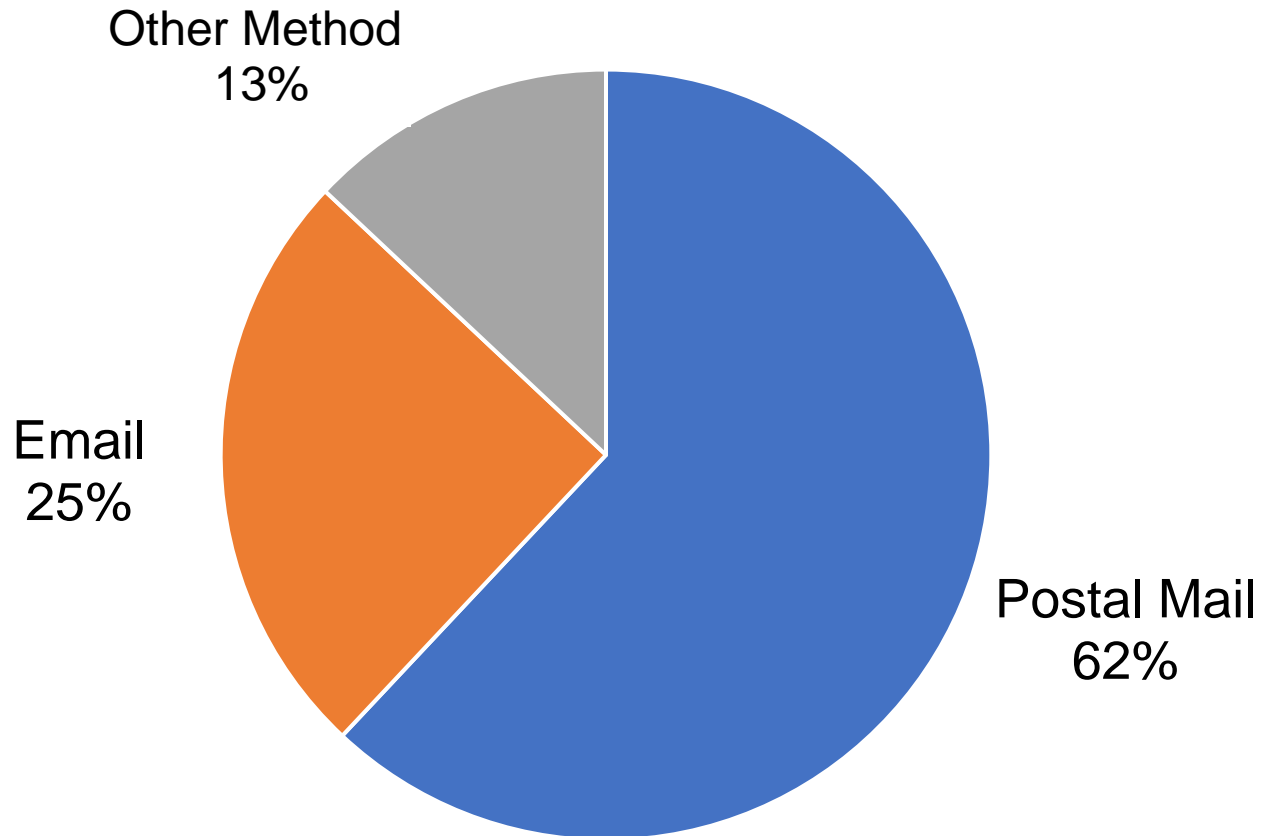
Methods of Electronic Return



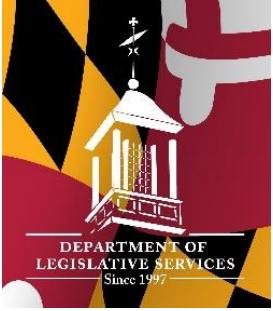
Source: National Conference of State Legislatures, Department of Legislative Services



Return Method for Military and Overseas Ballots Nationwide in 2022



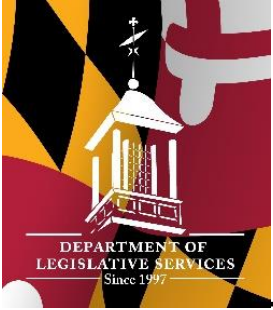
Source: U.S. Election Assistance Commission



Litigation Concerning Electronic Ballot Return

Overview

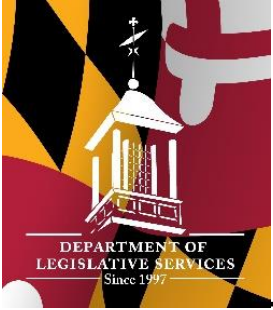
- Plaintiffs are typically those with print disabilities, like blindness or motor issues.
- Plaintiffs seek more accessible absentee voting programs, such as electronic ballot marking and electronic ballot return.



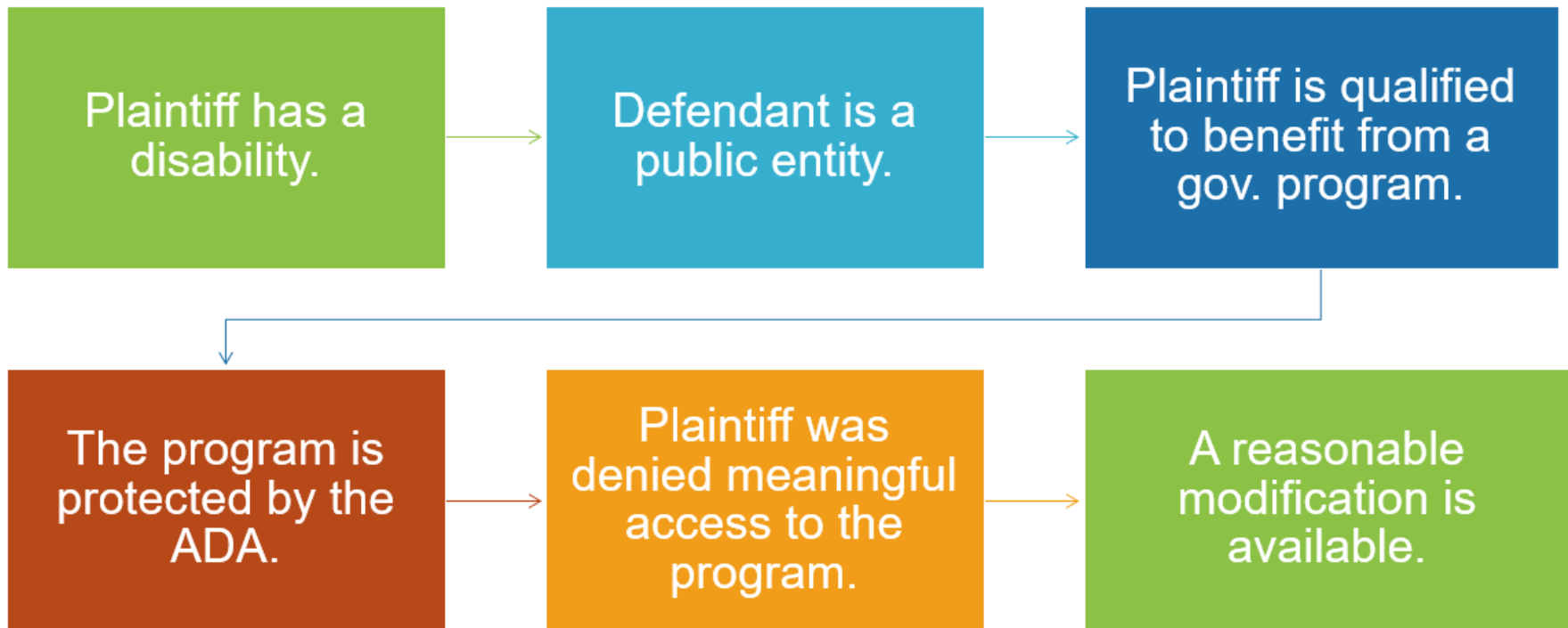


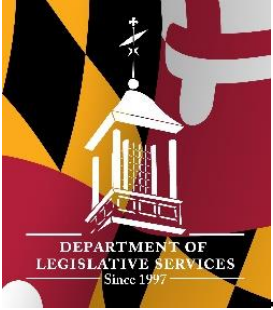
Overview

- Relief is most often sought under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act.
- Plaintiffs allege that the failure to provide an accommodation for absentee voting requires disabled individuals to rely on assistance from others, which prevents voters from voting absentee privately and independently.



Establishing a Violation





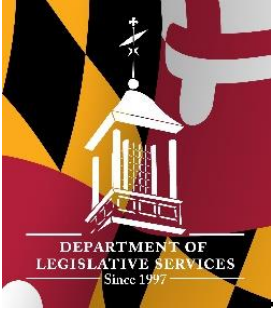
What Programs Are Protected?

- The ADA provides disability protections not just for broad public programs like voting, generally, but also for specific services, programs, or activities.
- This includes programs within voting, like absentee voting programs or early voting.

The logo for the Department of Legislative Services, featuring a stylized building with a dome and the text "DEPARTMENT OF LEGISLATIVE SERVICES Since 1997".

Meaningful Access

- Defendants have provided a benefit to nondisabled voters while denying that same benefit to plaintiffs on the basis of their disability.
- Plaintiffs allege that they were deprived of the opportunity to vote privately and independently without assistance, like their nondisabled counterparts – this denies them meaningful access.



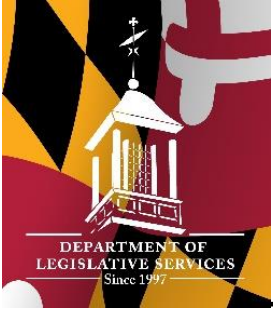
Reasonable Modification

- The court in *Lamone* then considered whether there is a reasonable modification that will provide meaningful access to the program.
- Defendant is not required to make modifications that fundamentally alter the program or impose undue hardship.



Typical Opposition

- There are other accessible ways to vote.
- If an injunction is sought, there is a high standard for relief.
- Accommodations would impose an undue hardship or fundamentally alter the nature of the service.
- Election security.



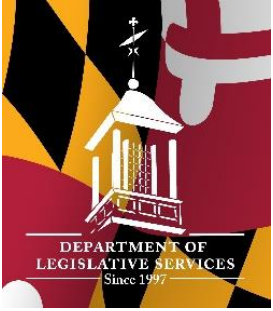
Uniformed and Overseas Citizens Absentee Voting Act

- When determining whether electronic ballot return is a reasonable modification to a state's absentee voting program, the court considers what type of absentee voting program is in place for UOCAVA voters in the state.
- The relief plaintiffs achieved usually tracks the state's policy for military and overseas voters.



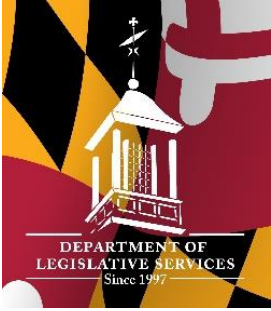
Outcomes

- Most legal actions brought by plaintiffs were successful in receiving some relief.
- Cases often ended in settlements.
- Other times, cases were decided by court rulings granting or denying an injunction.

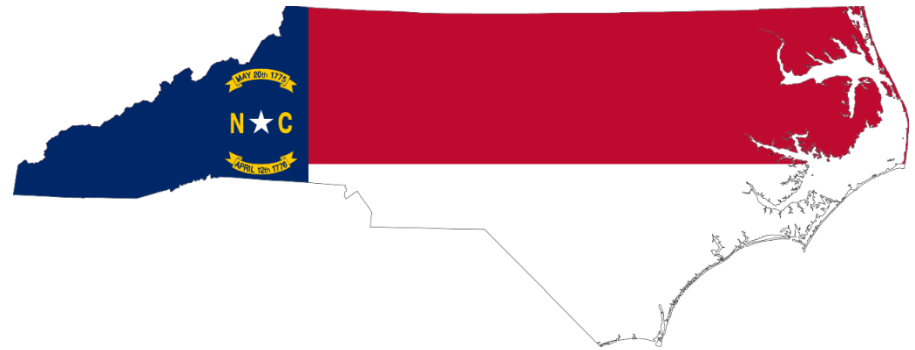


Case Studies





Taliaferro v. North Carolina State Board of Elections (2020)

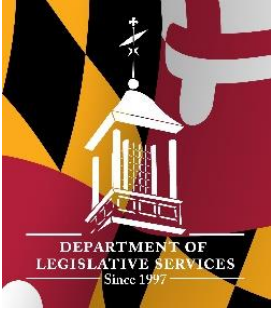


Outcome

The court found that plaintiffs are denied meaningful access to absentee voting and reasonable modifications are available because:

- Implementing an accessible system was feasible in five weeks;
- Electronic ballot return was already available for UOCAVA voters; and
- Security concerns did not outweigh private and independent voting because adding these voters to the existing electronic return system would not measurably increase any security risk.



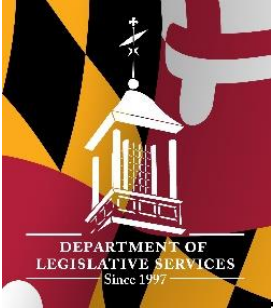


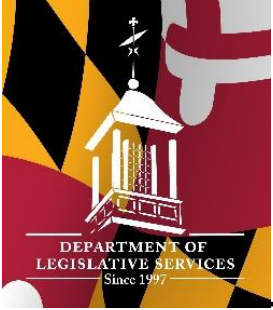
Hernandez v. NY State Board of Elections (2022)



Settlement

- The State Board of Elections must implement an absentee voting program that allows voters to electronically request, receive, and mark a ballot.
- No electronic ballot return.





Potential Advantages of Electronic Return

- I. Potential for increased voter turnout
- II. Improved access for military and overseas voters
- III. Improved access for voters with print disabilities



Increased Turnout

- **Estonia**

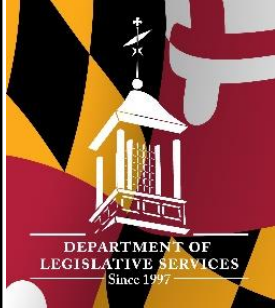
In 2002, Estonia passed legislation to enable Internet voting.

After the implementation of Internet voting in 2003, the voter turnout in parliamentary elections rose from 58.2% in 2003 to 61.9% in 2007.

In the European parliament elections, the turnout increased from 26.8% in 2004 to 43.9% in 2009.

In the 2009 local elections, voter turnout was 60.6%, which was about a 13% increase from the 2005 local elections, which had a turnout of 47.4%.

In addition to Internet voting, other factors may have contributed to increased voter turnout in Estonia.



Inconclusive Effect on Turnout

- **Petitpas, Electoral Studies (2021)**

Empirical records from case studies in various countries (Canada, Estonia, UK, Switzerland) are inconclusive.

Internet voting does not seem to have measurable effects on turnout.

Rather than attracting new voters, it mainly substitutes to existing voting means, such as postal voting.

- **Park, Journal of Cybersecurity (2021)**

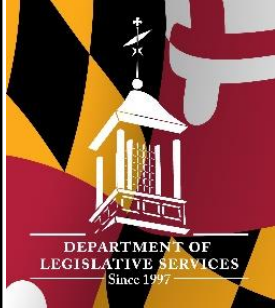
Internet voting may not increase turnout.

Studies on voter turnout have ranged from finding:

No impact on turnout (e.g., Switzerland);

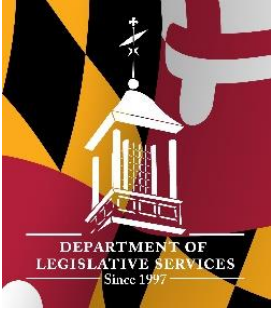
A slight decrease in turnout (e.g., Belgium); and

A slight increase that nonetheless does not solve the problem of low-voter turnout.



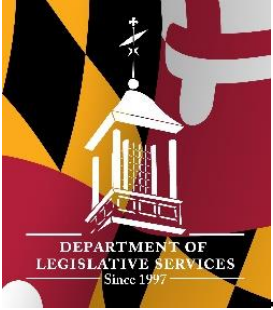
Improved Access for Military and Overseas Voters

- In 2018 and 2020, the states offering electronic ballot return experienced a more than 3% higher turnout among military and overseas voters compared to those without this option.
- A study conducted on West Virginia's trial of a mobile voting app during the 2018 U.S. midterm elections revealed that in participating counties, mobile voting resulted in a 3% to 5% increase in turnout among registered expatriate voters.



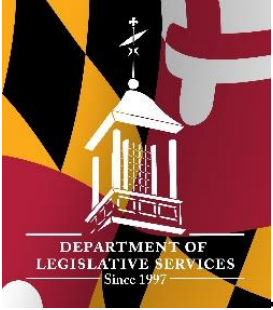
Improved Access for Voters with Disabilities

- Voters with print disabilities may not be able to mail a paper absentee ballot without assistance.
- Electronic ballot return would allow some voters with print disabilities to return a voted absentee ballot to election officials independently, without requiring the assistance of another individual. Election officials would still have to remake the ballot on standard ballot paper before it could be scanned and counted.
- Electronic ballot return would eliminate the risk that the voter's selections would be revealed to an individual assisting a voter with mailing the ballot. But the secrecy of the voter's ballot would still be at high risk of being violated during the electronic return process.



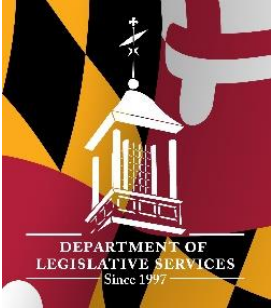
Potential Disadvantages of Electronic Return

- I. Insecurity
- II. Loss of Voter Privacy
- III. Loss of Public Confidence in Elections



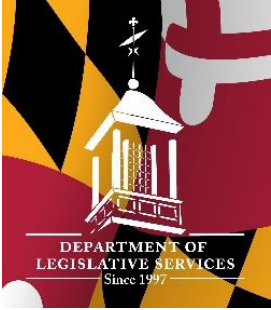
Voting Is Different from All Other Online Transactions

- **Ballot Secrecy** – How an individual votes must remain secret. This makes it much more difficult to verify that votes were counted accurately. Secrecy is not needed for online commercial transactions.
- **High Stakes** – Elections have enormous consequences that profoundly affect the lives of millions. No other online transactions are comparable.
- **Low Tolerance for Error** – The significant incidence of error and fraud that is typical in online commerce is unacceptable in elections. All legitimate votes must be counted, and any illegitimate votes rejected.
- **No Opportunity for Correction** – For practical and legal reasons, it is very difficult or impossible to rerun an election if it is tainted by online ballot fraud. Most online transactions can easily be corrected if fraud or error occurs.



Security Risks of Electronic Ballot Return

- **Malware on Voters' Devices** – Malware is prevalent on many voters' smartphones and computers that would be used to cast ballots electronically. The malware may be undetectable. A sophisticated attacker could easily compromise many voters' devices.
- **Denial-of-service Attacks** – These attacks could target a particular area or demographic group, altering the outcome of an election. An election that is disrupted by a denial-of-service attack is very difficult or impossible to rerun.
- **Voter Impersonation** – There is no widely available method for reliably verifying voters' identities over the Internet. Without effective identification, widespread fraud is possible.
- **Ballot Interception** – Ballots transmitted over the Internet could be intercepted by an attacker and altered or deleted. This interference may be undetectable and likely uncorrectable if detected.



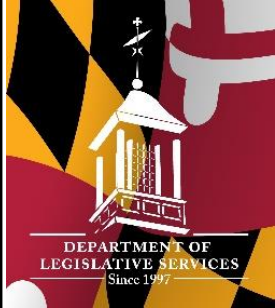
Security Risks of Electronic Ballot Return Are Greater Than Other Voting Methods

Internet Voting

- Attack altering thousands or millions of votes is feasible.
- Large-scale attack may be carried out by a small number of individuals or a single individual.
- Attack may be undetectable.
- Attackers may be located anywhere in the world, including in a country where they will not be punished for the crime.

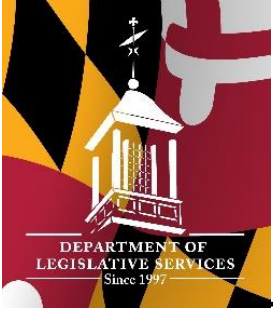
Traditional Voting (*i.e.*, in person or mail-in)

- Large-scale attack very difficult.
- Large-scale attack requires cooperation of many individuals to carry out.
- Large-scale attack is likely to be detected and thwarted.
- Attackers must be located in the United States, where they risk punishment for the crime.



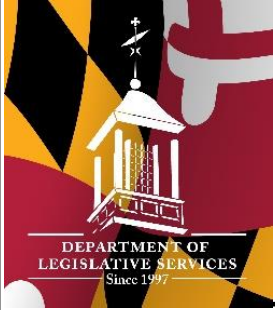
Expert Statements on Internet Voting

- **National Academy of Sciences**, Securing the Vote: Protecting American Democracy. “At the present time, the Internet...should not be used for the return of marked ballots. Further, Internet voting should not be used in the future until and unless very robust guarantees of security and verifiability are developed and in place, as no known technology guarantees the secrecy, security, and verifiability of a marked ballot transmitted over the Internet.” (2018) (consensus report)
- **United States Senate Intelligence Committee**, Report on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume I: Russian Efforts Against Election Infrastructure. “States should resist pushes for online voting.” (2019) (bipartisan recommendation)



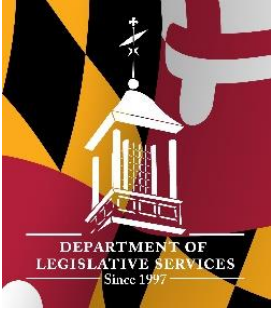
Expert Statements on Internet Voting

- **Cybersecurity and Infrastructure Security Agency, U.S. Election Assistance Commission, Federal Bureau of Investigation, and National Institute of Standards and Technology, Risk Management for Electronic Ballot Delivery, Marking, and Return.** “We recommend paper ballot return as electronic ballot return technologies are high risk even with controls in place...Electronic ballot return faces significant security risks to the confidentiality, integrity, and availability of voted ballots. These risks can ultimately affect the tabulation and results and can occur at scale.” (2020)



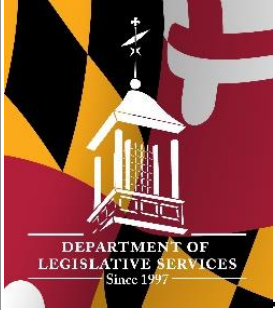
Expert Statements on Internet Voting

- **Working Group Hosted by the Center for Security in Politics at the University of California, Berkeley, Statement on Developing Standards for Internet Ballot Return.** “The Working Group concludes that the current cybersecurity environment and state of technology make it infeasible for the Working Group to draft responsible standards to support the use of Internet ballot return in U.S. public elections at this time...Implementing widespread adoption of secure and accessible Internet ballot return requires technologies that do not currently exist and others that have not been fully tested...The Working Group assesses that the risks associated with nation-states attacking end-user devices to impact U.S. public elections are problematically high and show no signs of declining.” (2022)



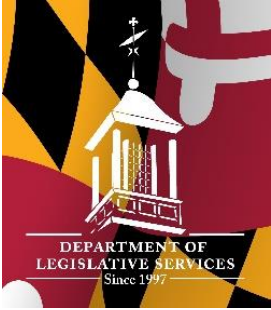
Loss of Voter Privacy

- An attacker could gain access to a ballot when it is in transit over the Internet and view and disclose the voter's selections.
- Ballots returned electronically are often linked with the voter's identity. For example, faxes and email attachments will include both the voter's personal information and the voter's marked ballot. For this reason, there is a high probability that the voter's selections will be known at least to the election official who receives the ballot.
- At least 22 states require a voter returning a ballot electronically to sign a statement waiving their right to a secret ballot. The Federal Voting Assistance Program requires military and overseas voters using its services to return a ballot electronically to sign a waiver of their right to a secret ballot.



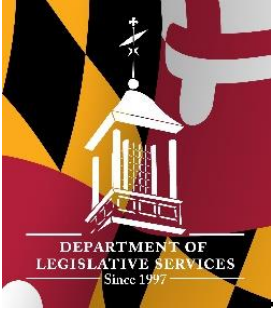
Loss of Public Confidence in Elections

- At a time when public distrust of election processes and results is already widespread, electronic ballot return introduces significant new risks that may further undermine public confidence in elections.
- The lack of a voter-verified paper record for ballots returned electronically makes it impossible for election officials to conduct effective audits to verify that election results are correct.
- In the absence of effective audits, it would be impossible to disprove false claims of fraud that are intended to undermine public confidence in elections.



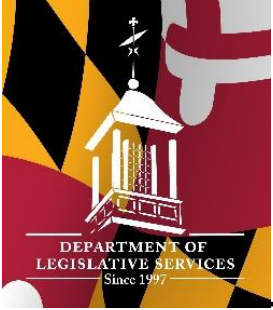
Potential Disadvantages of Electronic Ballot Return - Case Studies

- **New South Wales, Australia.** The online voting system crashed in local elections in 2021, preventing voters from casting ballots. The results in several contests were voided and the elections were rerun, without using Internet voting. The failure caused the state government to abandon Internet voting. A report issued in 2023 recommended that for security reasons, “paper-based voting should continue as the primary voting channel for the foreseeable future.” The report recommended an Internet voting option limited to blind or low-vision voters.
- **United States Postal Service.** The Postal Service secretly built and tested a blockchain-based mobile phone voting system. The system was never used in a real election and was abandoned in 2019 after researchers testing the system during a mock election found that it could be hacked in numerous ways.



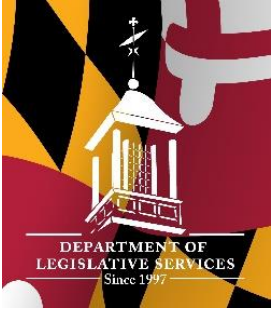
Potential Disadvantages of Electronic Ballot Return – Case Studies

- **Ecuador.** Voters living abroad used a website to vote over the Internet in national elections in 2023. The website was targeted by denial-of-service attacks that flooded the system with millions of illegitimate requests. Many legitimate voters were prevented from casting ballots. The attacks originated from several nations, including Russia and China. The government voided the votes cast over the Internet and ordered that a new election be held among voters abroad for members of parliament. The revote was conducted through in person voting at sites located around the world rather than through Internet voting.



Alternatives to Electronic Ballot Return

- I. Curbside Voting
- II. Bringing Accessible Equipment to Voters' Homes

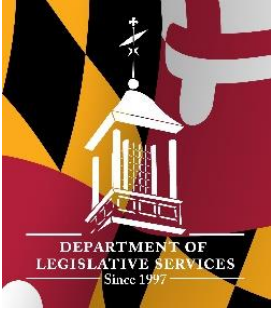


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Curbside Voting

- Curbside voting allows voters to cast ballots while in their vehicle outside a polling place.
- 27 states and the District of Columbia currently offer some form of curbside voting. Eligibility may be limited to the elderly, voters with disabilities, or those with health conditions. Maryland does not offer curbside voting.
- To make curbside voting accessible to voters with disabilities, accessible voting equipment must be made available at curbside. The Department of Justice recommends that accessible equipment be provided at curbside.
- In Dallas County, Texas (1.4 million registered voters) and Travis County, Texas (886,000 registered voters), a ballot marking device is taken to the voter's vehicle if needed. Those counties use the same Express Vote ballot marking device that Maryland uses.



Bringing Accessible Equipment to Voters' Homes

- To allow voters with print disabilities to vote from home privately and independently, Multnomah County, Oregon (Portland) and the City and County of San Francisco deploy teams of election officials to voters' homes with accessible voting equipment, such as a tablet or ballot marking device, and a printer. These teams also bring the voted paper ballot back to the election office while preserving the secrecy of the voter's ballot.
- A similar program in Maryland would provide another option for voters with disabilities who do not have access to a computer or printer at home and would allow those voters to return their voted ballots confidentially.

2024-HB0775-SB0802-UNFAV.pdf

Uploaded by: Nelda Fink

Position: UNF

HB0775 / SB0802 – UNFAVORABLE/OPPOSE

Nelda Fink

MD District 32

This bill serves no purpose since mail-in/absentee ballots already provide the capability for people with disabilities. In fact this whole section allowing online ballot printing should be repealed. Using an online ballot return creates more burden on the local jurisdictions to provide the security in the transmitting and printing of the ballot.

Let the mail-in/absentee ballots be the only exception to the in-person voting otherwise more entry points for failure and error are introduced.

Strongly oppose this bill.

Thank you.

Nelda Fink

MD.S0802.testimony.written.pdf

Uploaded by: Susan Greenhalgh

Position: UNF

**Testimony of Susan Greenhalgh
Senior Advisor on Election Security
Free Speech For People
before the
Maryland Senate
Education, Energy and Environment Committee
Contact: susan@freespeechforpeople.org**

Re: SB0802-UNFAVORABLE -Unless Amended

February 21, 2024

Thank you Chair Feldman, Vice Chair Kagon, and members of the Committee for the opportunity to testify today on SB0802. We urge you to amend SB0802 to provide voters with print disabilities alternative methods of accessible voting that do not include electronic ballot return which will introduce grave security risks to Maryland's elections.

I serve as the Senior Advisor on Election Security for Free Speech For People, a national, non-profit non-partisan legal advocacy organization dedicated to defending our democracy and our Constitution. We are committed to protecting the security and integrity of all ballots.

Cyber threats to elections remain intense. Representatives of both the FBI and the Department of Homeland security recently warned election administrators that our elections remain under attack. Adopting electronic ballot return will indisputably increase Maryland's vulnerability to attacks and errors that could upend an election, not just a few votes.

The Maryland Department of Legislative Services provided an excellent presentation on electronic ballot return last month on January 30th which detailed these security challenges. The presentation also noted that Maryland is unlikely to face successful litigation to force a move to electronic ballot return under the ADA because Maryland does not currently permit electronic ballot return for any voters.

We strongly oppose electronic ballot return, because over the last two decades, multiple scientific studies in both the public and private sectors have concluded that it is just too vulnerable to undetectable manipulation or tampering.

The most notable security assessment was issued in 2020 by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency or CISA.

(For clarity, CISA is the agency within the Department of Homeland Security that is responsible for securing critical infrastructure, including cybersecurity of election systems.)

The [risk-assessment](#) was issued not just by CISA, but also by the FBI, the National Institute of Standards and Technology or NIST (which also has responsibilities over election system security), and the US Election Assistance Commission. It is not common to have four federal agencies endorse a risk assessment like this, which underscores its importance. We've shared copies of this risk-assessment with the Committee.

The study determined that email and electronic ballot return is “High Risk” even with security controls and tools in place. In other words, even with the cyber security protections, our federal security agencies warn that there is a high risk of cyber attacks on the security, confidentiality, integrity, and availability of voted ballots, which could “ultimately affect the tabulation and results and, can occur at scale.”

The agencies expressly recommend paper ballots verified by the voter.

Though these warnings are grave, it's important to understand that DHS/CISA can't lobby on legislation. It can only provide its analysis. CISA will not contact you to warn you of these security issues. So, we urge the Committee to carefully examine the federal agencies' conclusions that electronic ballot return is high risk, regardless of the security protections promised.

It is true that over two dozen states currently allow electronic ballot return, but this should not be taken as evidence that it's secure or advisable. Most states passed laws to allow electronic return during the 90's and early 2000's, while the Department of Defense was actively developing a “secure” electronic ballot return system for military and overseas voters. The project was scrapped after it underwent a review which detailed the fundamental, unsolvable security problems. After several years of study and multiple reports, they concluded it could not develop a framework for secure electronic ballot return, because it couldn't be made secure. In 2015, Congress repealed the project and it was abandoned. But it was during this time, before this research was done, that most states passed these laws. Instead of expanding it, we advocate that these states should repeal electronic ballot return voting.

We understand that the sponsor may amend this bill to explore alternative accessible voting methods and we strongly support that path. We welcome the opportunity to work together to seek and offer additional accessible voting options.

Thank you again for the opportunity to offer testimony. I welcome your questions and any opportunity to provide additional information.

Oppose.HB775.SB802.pdf

Uploaded by: Susannah Goodman

Position: UNF

**BRENNAN
CENTER**
FOR JUSTICE



**Common
Cause**

Verified Voting



ACLU
Maryland

**FREE SPEECH
FOR PEOPLE**
ORG

Oppose HB 775/ SB 0802

Election Law - Voters with Disabilities - Electronic Ballot Return

February 16, 2024

Dear Legislators:

Thank you for your work to expand and enhance voting access for Maryland voters. We applaud the reforms enacted recently to make voting safe and accessible, including expanding access to vote by mail, early voting, and voting in correctional facilities throughout the state. We share your commitment to ensuring that all voters, including those with disabilities and military voters overseas, can exercise their right to vote.

In this regard, we understand the motivation behind the effort to adopt and implement electronic ballot return in the state of Maryland. We believe the goals of such an effort—among other things, to foster independent, private voting by voters with visual impairments and other print disabilities—are laudable. If passed at this time, however, the legislation will put the security of Maryland’s election infrastructure at risk and undermine public confidence in election results. Instead, we specifically urge Maryland to adopt alternative, more secure mechanisms, which we detail below.

Significantly, according to four government agencies, ballots electronically returned over the internet *can be intercepted, deleted and altered at scale and can therefore change election results*. The U.S. Cybersecurity and Infrastructure Security Agency (CISA), Federal Bureau of Investigation (FBI), NIST, and the U.S. Election Assistance Commission (EAC) issued a bulletin assessing electronic ballot return as “high” risk, saying it “faces significant security risks to the

confidentiality, integrity, and availability of voted ballots. These risks can ultimately affect the tabulation and results and can occur at scale.”^[1]

At a time when the integrity and veracity of election results are continuously called into question and foreign actors have accessed state election infrastructure, it is not the moment to adopt technology deemed high risk and insecure.

Even beyond the four-agency government report, there is broad consensus that electronic ballot return presents severe security risks to the integrity of our elections because, as stated above, *ballots cast over the internet can be intercepted, deleted and altered at scale – and can therefore change election results.*

- In December 2022, experts convened by the University of California’s Berkeley Center for Security in Policy concluded *it was not feasible* to create standards for online ballot return to be done securely and privately. “When internet ballot return is employed,” the Working Group wrote, “it may be possible for a single attacker to alter thousands or even millions of votes. And this lone individual could perpetrate an attack from a different continent from the one where the election is being held – perhaps even while under the protection of a rogue nation where there is no concern of repercussions.
- NIST --a federal agency that issued the December 2022 report *Promoting Access to Voting* on ways to enhance accessibility for voters with disabilities and that is responsible for issuing cybersecurity standards-- notably did not include electronic ballot return among its recommendations because, as it concluded, “there remain *significant security, privacy, and ballot secrecy challenges.*”
- In 2019, the bipartisan U.S. Senate Select Committee on Intelligence determined that “*states should resist pushes for online voting*” in light of findings that foreign governments were actively trying to attack American election systems. According to the Committee, “While the Committee agrees states should take great pains to ensure members of the military get to vote for their elected officials, no system of online voting has yet established itself as secure.”

Accessibility issues, especially for voters with print disabilities, are real and need to be addressed. We urge the legislature to invest resources in examining alternative accessible absentee voting methods. Maryland can start by considering the two NIST recommendations that address the needs of those with print disabilities: (1) Implementation of alternative attestation methods for voters who cannot sign their mail-in ballot oaths; and (2) inclusion of tactile marks, such as punched holes, to guide blind voters where to sign. In addition, Maryland can look to practices in other jurisdictions, like bringing poll workers and accessible systems to voters who need them. San Francisco County, CA; Multnomah County, OR; the State of Arizona, and the State of Vermont all offer in-person accessibility assistance in voters’ homes^[2] – and we would be happy to provide you with more information about those programs.

Maryland also can and should take steps to improve voting accessibility more generally, as recommended in the NIST report, by:

- ensuring that county elections websites are accessible;
- providing election-related information in accessible formats, through a variety of channels including social media, radio, text and phone, and other necessary features;

- providing physical descriptions of each polling place, indicating accessible entrances, exits, public transit, and parking;
- providing voting education classes for voters with disabilities in collaboration with local disability support agencies;
- establishing a workgroup or task force made up of representatives from voting and disability rights communities to explore and recommend additional accessibility improvements that are secure; and
- establishing curbside voting.

We are very interested in working collaboratively and creatively to identify reforms that are both accessible and secure.

We would welcome the opportunity to provide you – or other lawmakers – further information about the technical aspects and unavoidable and severe inherent risks of electronic ballot return. We would also welcome the opportunity to collaborate with you on implementing accessibility improvements that do not present security risks.

Joanne Antoine
Executive Director
Common Cause Maryland

Yanet Amanuel
Public Policy Director
ACLU Maryland

Lawrence Norden
Director, Elections and Government Program
The Brennan Center for Justice

Susan Greenhalgh
Senior Advisor on Election Security
Free Speech for People

Aquene Freechild
Co-Director, Democracy Campaign
Public Citizen

Pamela Smith
President
Verified Voting

[1] *Risk Management for Electronic Ballot Delivery, Marking, and Return* (May 2020), available at

https://s.wsj.net/public/resources/documents/Final_%20Risk_Management_for_ElectronicBallot_05082020.pdf?mod=article_inline

[2] *Casting Votes Safely: Examining Internet Voting's Dangers and Highlighting Safer Alternatives* (Verified Voting, October 2023), available at <https://verifiedvoting.org/wp-content/uploads/2023/10/VerifiedVoting-CastingVotesSafely-2023-FIN.pdf>

SB0802.pdf

Uploaded by: Suzanne Duffy

Position: UNF

WHERE IS THE CHAIN OF CUSTODY AND HOW CAN IT BE ENFORCED? IT CAN'T.

Say NO to this bill that will only create more voter distrust and it will make our elections less secure.

Suzanne Price
AACo

“Public trust in the federal government, which has been low for decades, has returned to near record lows following a modest uptick in 2020 and 2021. Currently, fewer than two-in-ten Americans say they trust the government in Washington to do what is right “just about always” (1%) or “most of the time” (15%). This is among the lowest trust measures in nearly seven decades of polling. Last year, 20% said they trusted the government just about always or most of the time.” PEW Research, Sept 2023
<https://www.pewresearch.org/politics/2023/09/19/public-trust-in-government-1958-2023/>

SB802-2024 .docx.pdf

Uploaded by: John Michael Gudger

Position: INFO



Maryland Association of Election Officials

Representing the Local Election Boards of the State of Maryland

February 21, 2024

Senator Brian Feldman, Chair
Education, Energy, and the Environment Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

SB802 – Information

Chair Feldman, Vice Chair Kagan and Committee Members:

My name is John Michael Gudger, Chair of the Maryland Association of Election Officials (MAEO) Legislative Committee. Thank you for allowing me to present this informational testimony on SB802 - Election Law - Voters With Disabilities - Electronic Ballot Return.

Current Practice

Under our current policy, known as webmail delivery, we offer every voter the opportunity to access their ballots electronically. Once accessed, it is the responsibility of the voter to accurately complete their ballot, print both the ballot and the accompanying oath page, sign the oath page, and then send the entire ballot package back to their local board of elections using the provided envelope template.

Upon receiving the ballot package, the local board acknowledges its receipt to the voter and securely stores it until the mail-in ballot canvass. During the canvass, the ballot package is opened, and the oath document is inspected for the voter's signature. If the signature is missing, we ensure the voter is provided with an opportunity to correct this oversight.

SB802 Requirements

MAEO recognizes the paramount importance of the Americans with Disabilities Act (ADA). The ADA aims to eliminate discrimination against individuals with disabilities in all aspects of public life, including the essential act of voting, by requiring the provision of necessary accommodations to ensure equal participation. Moreover, the ADA safeguards the privacy of individuals with disabilities by forbidding the compulsory disclosure of their disability status. As a result, we are not permitted to ask individuals about their disability status.

In order to adhere to the requirements of both Title II of the ADA and Senate Bill 802, it would be essential to extend the option of electronic ballot returns to all voters. By adopting this approach, voters can choose this method without the need to reveal any disability status. Furthermore, this strategy ensures that individuals with disabilities can preserve the confidentiality of their ballot, preventing the automatic association of every electronically returned ballot with a voter with a disability.

We are grateful for the opportunity to provide informational testimony to the committee and are eager to address any questions you may have regarding the processes of local boards.

Sincerely,

John Michael Gudger
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Chair, MAEO Legislative Committee