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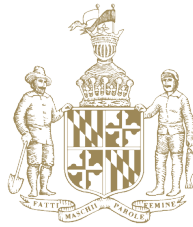
Government, Labor, and
Elections Committee

Subcommittees

Chair, Election Law

Local Government/Bi-County
Agencies and Administration

Chair, Maryland Legislative
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THE MARYLAND HOUSE OF DELEGATES
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Honorable Melissa Wells, Chair
Government Labor and Elections Committee
145 Lowe House Office Building
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February 25, 2026

House Bill 1069 / Senate Bill 949 – Election Law – Canvassing of Absentee Ballots –
Preemption by Federal 3 Judicial Action

HB 1069 is a "trigger law" designed to effectuate Maryland voters' ballots for state elections in the event of a federal judicial action that curtails the state's ability to count votes for federal offices on ballots postmarked by election day but received afterwards.

Under current Maryland law, if a ballot is postmarked by election day but received by the State afterwards, those votes are still counted for all offices voted for. However, [pending litigation before the Supreme Court](#) may end the State's ability to count timely-postmarked votes for federal races if the ballots are received after election day.¹

To address this, HB1069 gives the State Board of Elections the ability to develop procedures to guarantee that votes cast for state office are still counted even if the Supreme Court decides that votes on those ballots cast for federal offices are ineligible for counting.

To be clear, this bill does not advocate for disregarding future Supreme Court rulings. On the contrary, it mandates that SBE also develop a timely procedure for complying with any decision the Court makes. But under the US Constitution, Maryland elections are administered and regulated by Maryland, and it is well within the State's right to determine the procedures for counting votes for its own offices.

¹ The Question Presented in [Watson v. RNC](#): The federal election-day statutes—2 U.S.C. § 7, 2 U.S.C. § 1, and 3 U.S.C. § 1—set the Tuesday after the first Monday in November in certain years as the “election” day for federal offices. Like all other States, Mississippi requires that ballots for federal offices be cast—marked and submitted to election officials—by that day. **And like most other States, Mississippi allows some of those timely cast ballots (mail-in absentee ballots, in Mississippi’s case) to be counted if they are received by election officials a short time after election day** (in Mississippi, within 5 business days after election day). Miss. Code Ann. § 23-15-637(1)(a). In the decision below, the Fifth Circuit held that the federal election-day statutes require that ballots be both cast by voters and received by election officials by election day and thus preempt Mississippi’s law. The question presented is **whether the federal election-day statutes preempt a state law that allows ballots that are cast by federal election day to be received by election officials after that day.**

Recognizing the speculative nature of the pending Court case, this emergency bill only applies to 2026 and 2028 elections and is styled as a "trigger law," only taking effect "[i]f there is an occurrence of federal judicial action regarding the timely receipt of absentee ballots with federal contests that preempts regulations adopted by the State Board of Elections."

In conclusion, this bill is necessary to guarantee that Maryland can administer its elections responsibly in this uncertain legal environment and ensure that every vote that is legally able to be counted is counted.

Because all Marylanders deserve to cast ballots that impact who is representing them in the halls of power, I urge a favorable report.

Respectfully,

A handwritten signature in blue ink that reads "Kris Fair". The signature is written in a cursive style with a horizontal line underneath it.

Delegate Kris Fair
District 3, Frederick County