

HOUSE BILL 102

G1
HB 309/07 – W&M

8lr0594
CF SB 54

By: **Delegates Rosenberg, Bronrott, Dumais, Haynes, Ivey, Rice, Ross, ~~and F. Turner~~ F. Turner, Frick, Gilchrist, Cardin, Doory, Olszewski, and Stukes**

Introduced and read first time: January 16, 2008
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 16, 2008

CHAPTER _____

1 AN ACT concerning

2 **Voter's Rights Protection Act of 2008**

3 FOR the purpose of altering the circumstances under which an individual may be
4 offered the opportunity to cast a provisional ballot; requiring the State Board of
5 Elections to ensure that the program of instruction for election judges
6 incorporates a thorough and detailed treatment of certain information;
7 requiring a local board to extend the hours that a polling place shall be open
8 under certain circumstances; prohibiting a vacancy in polling place staff from
9 delaying the opening of the polling place; prohibiting an election judge from
10 requiring a voter to present photo identification before voting, except as
11 authorized by State or federal law; requiring certain election judges to
12 document for further investigation any malfunction of the voting system and
13 other issues that arise during the course of an election; regulating the activities
14 of challengers or watchers at the polling place; prohibiting certain persons from
15 distributing, disseminating, or publishing, or being responsible for such
16 activities, with respect to any item of campaign material that contains certain
17 fraudulent representations or implications; authorizing a court to impose a
18 certain civil penalty or issue a certain injunction only after making certain
19 findings; authorizing the Attorney General or a registered voter to institute a
20 court action for certain relief under certain circumstances; making technical
21 changes; providing for the effective dates of this Act; and generally relating to
22 voting procedures and requirements under the State election law.

23 BY repealing and reenacting, with amendments,

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 Article – Election Law
2 Section 9–404, 10–206, 10–301, 10–305, 10–310, 10–311, and 16–201
3 Annotated Code of Maryland
4 (2003 Volume and 2007 Supplement)

5 BY adding to
6 Article – Election Law
7 Section 13–401.1
8 Annotated Code of Maryland
9 (2003 Volume and 2007 Supplement)

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

12 **Article – Election Law**

13 9–404.

14 (a) If an individual is eligible under subsection (b) of this section, the
15 individual shall be issued and may cast a provisional ballot:

16 (1) at a polling place on election day; or

17 (2) at the local board office in the county where the individual resides
18 after the close of registration and before the closing of the polls on election day.

19 (b) An individual is eligible to cast a provisional ballot if:

20 (1) the individual declares in a written affirmation submitted with the
21 provisional ballot that the individual is a registered voter in the State and is eligible to
22 vote in that election; and

23 (2) (i) the individual’s name does not appear on the precinct
24 register;

25 (ii) an election official asserts that the individual is not eligible
26 to vote; [or]

27 (iii) the individual does not have the necessary identification; **OR**

28 **(IV) A CHIEF ELECTION JUDGE DETERMINES THAT THERE IS**
29 **A PROBLEM OUTSIDE OF THE VOTER’S CONTROL THAT CAUSES THE VOTER TO**
30 **BE UNABLE TO VOTE A REGULAR BALLOT.**

31 (c) **(1)** In addition to the individuals who cast provisional ballots under
32 subsections (a) and (b) of this section, any individual who appears to vote during a

1 period covered by a court order or other order extending the time for closing the polls
2 shall cast a provisional ballot.

3 **(2)** A provisional ballot cast under **PARAGRAPH (1) OF** this subsection
4 shall be separated and held apart from other provisional ballots cast by those not
5 affected by the order.

6 10–206.

7 (a) In consultation with the local boards, the State Board shall:

8 (1) develop a program of instruction of election judges; [and]

9 **(2) ENSURE THAT THE PROGRAM OF INSTRUCTION**
10 **INCORPORATES A THOROUGH AND DETAILED TREATMENT OF THE DUTIES AND**
11 **LIMITATIONS OF ELECTION JUDGES UNDER STATE AND FEDERAL ELECTION**
12 **LAW; AND**

13 [~~(2)~~] **(3)** oversee the implementation of the program of instruction.

14 (b) The training materials utilized by the program may include:

15 (1) an instruction manual and other written directives;

16 (2) curriculum for training sessions; and

17 (3) audiovisuals.

18 (c) The State Board shall develop a process for the evaluation of the training
19 program and the performance of the polling place staff in each county.

20 (d) **(1)** To the extent appropriate, the training program shall be specific to
21 each of the voting systems used in polling places in the State.

22 **(2) ELECTION JUDGES SHALL BE TRAINED TO OPERATE**
23 **EFFECTIVELY THE VOTING SYSTEM AND ALL OF ITS FEATURES, INCLUDING**
24 **FEATURES DESIGNED TO ENSURE COMPLIANCE WITH THIS SECTION AND STATE**
25 **AND FEDERAL LAWS RELATED TO VOTERS WITH DISABILITIES.**

26 (e) Each local board shall conduct election judge training based on the
27 program developed by the State Board.

28 (f) (1) Except as provided in paragraph (2) of this subsection, each
29 election judge shall participate in the training program provided for in subsection (a)
30 of this section.

1 (2) An election judge who is appointed under emergency circumstances
2 is not required to attend the course of instruction.

3 10-301.

4 (a) [On] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON** an election
5 day, a polling place shall be open from 7 a.m. until 8 p.m.

6 **(B) IF FOR ANY REASON ~~THE OPENING OF A POLLING PLACE IS~~**
7 **~~DELAYED FOR MORE THAN 1 HOUR~~ A POLLING PLACE IS CLOSED FOR MORE**
8 **THAN 1 HOUR BETWEEN 7 A.M. AND 8 P.M. ON AN ELECTION DAY, THE LOCAL**
9 **BOARD SHALL:**

10 (1) **REQUIRE THE ELECTION JUDGES IN THAT POLLING PLACE TO**
11 **KEEP THE POLLING PLACE OPEN FOR AN ADDITIONAL PERIOD OF TIME EQUAL**
12 **TO THE PERIOD ~~OF THE DELAY~~ THAT THE POLLING PLACE WAS CLOSED, BUT**
13 **NOT TO EXCEED 2 HOURS;**

14 (2) **PROMPTLY NOTIFY THE STATE ADMINISTRATOR; AND**

15 (3) **CONSISTENT WITH THE INSTRUCTIONS FROM THE STATE**
16 **ADMINISTRATOR, NOTIFY THE PUBLIC OF THE EXTENDED VOTING HOURS.**

17 [(b)] (C) A voter who has appeared at a polling place by the closing hour to
18 cast a ballot shall be allowed to vote.

19 10-305.

20 (A) **A VACANCY IN THE POLLING PLACE STAFF MAY NOT DELAY THE**
21 **OPENING OF THE POLLING PLACE.**

22 [(a)] (B) If there is a vacancy in the polling place staff during voting hours:

23 (1) the local board may fill the vacancy with a substitute election judge
24 who has been recruited and trained; or

25 (2) an election judge who is present at the polling place may fill the
26 position of the absent election judge by appointing a person registered with the same
27 party affiliation as the absent election judge.

28 [(b)] (C) If a substitute election judge is appointed under subsection [(a)]
29 (B) of this section:

30 (1) either the election director, the election director's designee, or the
31 election judge making the substitute appointment shall administer the oath required
32 under § 10-204 of this title; and

1 (2) a chief election judge shall document any change in the polling
2 place staff in the records of the polling place.

3 10–310.

4 (a) For each individual who seeks to vote, an election judge, in accordance
5 with instructions provided by the local board, shall:

6 (1) locate the individual’s name in the precinct register and locate the
7 preprinted voting authority card and then authorize the individual to vote a regular
8 ballot;

9 (2) (i) if the individual’s name is not found on the precinct register,
10 search the inactive list and if the name is found, authorize the individual to vote a
11 regular ballot; or

12 (ii) if the individual’s name is not on the inactive list, refer the
13 individual for provisional ballot voting under § 9–404 of this article;

14 (3) **SUBJECT TO SUBSECTION (B) OF THIS SECTION**, establish the
15 identity of the voter by requesting the voter to state the month and day of the voter’s
16 birth and comparing the response to the information listed in the precinct register;

17 (4) (i) except if a voter’s personal information has been deemed
18 confidential by the local board, verify the address of the voter’s residence; or

19 (ii) conduct an alternative verification as established by the
20 State Board, if the voter’s personal information has been deemed confidential by the
21 local board;

22 (5) if any changes to the voting authority card are indicated by a voter,
23 make the appropriate changes in information on the card or other appropriate form;
24 and

25 (6) have the voter sign the voting authority card and either issue the
26 voter a ballot or send the voter to a machine to vote.

27 **(B) AN ELECTION JUDGE MAY REQUIRE A VOTER TO PRESENT**
28 **IDENTIFICATION BEFORE ALLOWING THE VOTER TO CAST A BALLOT ONLY TO**
29 **THE EXTENT AUTHORIZED OR REQUIRED BY STATE OR FEDERAL LAW.**

30 **[(b)] (C)** On the completion of the procedures set forth in subsection (a) of
31 this section, a voter may vote in accordance with the procedures appropriate to the
32 voting system used in the polling place.

1 [(c)] (D) (1) Before a voter enters a voting booth, at the request of the
2 voter, an election judge shall:

3 (i) instruct the voter about the operation of the voting system;
4 and

5 (ii) allow the voter an opportunity to operate a model voting
6 device, if appropriate to the voting system in use.

7 (2) (i) 1. After a voter enters the voting booth, at the request of
8 the voter, two election judges representing different political parties shall instruct the
9 voter on the operation of the voting device.

10 2. An election judge may not suggest in any way how the
11 voter should vote for a particular ticket, candidate, or position on a question.

12 3. After instructing the voter, the election judges shall
13 exit the voting booth and allow the voter to vote privately.

14 (ii) A voter may take into the polling place any written or
15 printed material to assist the voter in marking or preparing the ballot.

16 (3) (i) Except as provided in subparagraph (ii) of this paragraph, a
17 voter who requires assistance in marking or preparing the ballot because of a physical
18 disability or an inability to read the English language may choose any individual to
19 assist the voter.

20 (ii) A voter may not choose the voter's employer or agent of that
21 employer or an officer or agent of the voter's union to assist the voter in marking the
22 ballot.

23 (4) If the voter requires the assistance of another in voting, but
24 declines to select an individual to assist, an election judge, in the presence of another
25 election judge that represents another political party, shall assist the voter in the
26 manner prescribed by the voter.

27 (5) An individual assisting a voter may not suggest in any way how
28 the voter should vote for a particular ticket, candidate, or position on a question.

29 (6) If a voter requires assistance under paragraph (4) or (5) of this
30 subsection, the election judge shall record, on a form prescribed by the State Board,
31 the name of the voter who required assistance and the name of the individual
32 providing assistance to the voter.

33 (7) Except as provided in paragraph (3) or (4) of this subsection, an
34 individual over the age of 12 years may not accompany a voter into a voting booth.

1 **(E) CONSISTENT WITH INSTRUCTIONS PROVIDED IN THE MANUAL FOR**
2 **ELECTION JUDGES, DURING THE COURSE OF THE ELECTION THE CHIEF**
3 **ELECTION JUDGES SHALL KEEP A LOG OF ISSUES THAT ARISE IN THE POLLING**
4 **PLACE, INCLUDING:**

5 **(1) ANY ALLEGED MALFUNCTION OF THE VOTING EQUIPMENT;**

6 **(2) ISSUES THAT MAY REQUIRE FURTHER INVESTIGATION; AND**

7 **(3) ISSUES REGARDING THE CONDUCT OF CHALLENGERS AND**
8 **WATCHERS.**

9 10–311.

10 (a) (1) The following persons or entities have the right to designate a
11 registered voter as a challenger or a watcher at each place of registration and election:

12 (i) the State Board for any polling place in the State;

13 (ii) a local board for any polling place located in the county of
14 the local board;

15 (iii) a candidate;

16 (iv) a political party; and

17 (v) any other group of voters supporting or opposing a
18 candidate, principle, or proposition on the ballot.

19 (2) A person who appoints a challenger or watcher may remove the
20 challenger or watcher at any time.

21 (b) Except as provided in § 10–303(d)(2) of this subtitle and subsection (d) of
22 this section, a challenger or watcher has the right to:

23 (1) enter the polling place one–half hour before the polls open;

24 (2) enter or be present at the polling place at any time when the polls
25 are open;

26 (3) remain in the polling place until the completion of all tasks
27 associated with the close of the polls under § 10–314 of this subtitle and the election
28 judges leave the polling place;

29 (4) maintain a list of registered voters who have voted, or individuals
30 who have cast provisional ballots, and take the list outside of the polling place; and

1 (5) enter and leave a polling place for the purpose of taking outside of
2 the polling place information that identifies registered voters who have cast ballots or
3 individuals who have cast provisional ballots.

4 (c) (1) (i) A certificate signed by any party or candidate shall be
5 sufficient evidence of the right of a challenger or watcher to be present in the voting
6 room.

7 (ii) The State Board shall prescribe a form that shall be
8 supplied to the challenger or watcher by the person or entity designating the
9 challenger or watcher.

10 (2) A challenger or watcher shall be positioned near the election
11 judges and inside the voting room so that the challenger or watcher may see and hear
12 each person as the person offers to vote.

13 (d) (1) A challenger or watcher may not attempt to:

14 (i) ascertain how a voter voted or intends to vote;

15 (ii) converse in the polling place with any voter;

16 (iii) assist any voter in voting; [or]

17 (iv) physically handle an original election document **OR ANY**
18 **VOTING EQUIPMENT;**

19 (v) **MAKE A CHALLENGE INDISCRIMINATELY OR WITHOUT**
20 **GOOD CAUSE;**

21 (vi) **INTERFERE WITH OR UNDULY DELAY THE WORK OF AN**
22 **ELECTION JUDGE; OR**

23 (vii) **MAKE A CHALLENGE OF A QUALIFIED VOTER FOR THE**
24 **PURPOSE OF ANNOYANCE OR DELAY.**

25 (2) An election judge may eject a challenger or watcher who violates
26 the prohibitions under paragraph (1) of this subsection.

27 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, an
28 election judge shall permit an individual other than an accredited challenger or
29 watcher who desires to challenge the right to vote of any other individual to enter the
30 polling place for that purpose.

31 (2) A majority of the election judges may limit the number of
32 nonaccredited challengers and watchers allowed in the polling place at any one time
33 for the purpose of challenging the right of an individual to vote.

1 (3) A nonaccredited challenger or watcher shall leave the polling place
2 as soon as a majority of the election judges decides the right to vote of the individual
3 challenged by the challenger or watcher.

4 (4) In addition to restrictions provided under this subsection, all
5 restrictions on the actions of an accredited challenger or watcher provided under this
6 subtitle apply to a nonaccredited challenger or watcher.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **13-401.1.**

10 (A) **THIS SECTION APPLIES TO CAMPAIGN MATERIAL THAT RELATES TO**
11 **OR DESCRIBES:**

12 (1) **THE TIME, PLACE, OR MANNER OF ANY ELECTION; OR**

13 (2) **THE QUALIFICATIONS FOR OR RESTRICTIONS ON VOTER**
14 **ELIGIBILITY FOR AN ELECTION;**

15 ~~(3) THE EXPLICIT ENDORSEMENT BY ANY PERSON OR~~
16 ~~ORGANIZATION OF A CANDIDATE OR;~~

17 ~~(4) THE POLITICAL PARTY AFFILIATION OF A CANDIDATE OR~~
18 ~~THAT A CANDIDATE HAS BEEN NOMINATED BY A POLITICAL PARTY WHEN IN~~
19 ~~FACT THAT CANDIDATE HAS NOT BEEN NOMINATED BY THAT POLITICAL PARTY;~~
20 ~~OR~~

21 ~~(5) (4) THE HOLDING OF AN OFFICE BY A CANDIDATE.~~

22 (B) **A PERSON, POLITICAL COMMITTEE, CAMPAIGN FINANCE ENTITY, OR**
23 **OTHER ORGANIZATION OR ENTITY MAY NOT DISTRIBUTE, DISSEMINATE, OR**
24 **PUBLISH OR CAUSE TO BE DISTRIBUTED, DISSEMINATED, OR PUBLISHED ANY**
25 **ITEM OF CAMPAIGN MATERIAL SUBJECT TO THIS SECTION KNOWING THE**
26 **CAMPAIGN MATERIAL IS FALSE AND WITH THE INTENT TO INFLUENCE A VOTER**
27 **OR TO PREVENT THE VOTER FROM EXERCISING THE RIGHT TO VOTE IN AN**
28 **ELECTION.**

29 (C) (1) **A COURT MAY IMPOSE A CIVIL PENALTY UNDER § 13-604 OF**
30 **THIS TITLE FOR A VIOLATION OF THIS SECTION ONLY IF IT FINDS BY CLEAR AND**
31 **CONVINCING EVIDENCE THAT A VIOLATION OCCURRED.**

1 **(2) A COURT MAY ISSUE AN INJUNCTION UNDER § 13-605 OF THIS**
2 **TITLE AGAINST A VIOLATION OF THIS SECTION ONLY IF IT FINDS:**

3 **(I) BY CLEAR AND CONVINCING EVIDENCE THAT A**
4 **VIOLATION IS OCCURRING OR IS ABOUT TO OCCUR;**

5 **(II) AN INJUNCTION IS NECESSARY TO ACCOMPLISH THE**
6 **STATE'S INTEREST; AND**

7 **(III) OTHER AVAILABLE ALTERNATIVES ARE INSUFFICIENT**
8 **TO ACCOMPLISH THE STATE'S INTEREST.**

9 16-201.

10 (a) A person may not willfully and knowingly:

11 (1) (i) impersonate another person in order to vote or attempt to
12 vote; or

13 (ii) vote or attempt to vote under a false name;

14 (2) vote more than once for a candidate for the same office or for the
15 same ballot question;

16 (3) vote or attempt to vote more than once in the same election, or vote
17 in more than one election district or precinct;

18 (4) vote in an election district or precinct without the legal authority
19 to vote in that election district or precinct;

20 (5) influence or attempt to influence a voter's voting decision through
21 the use of force, threat, menace, intimidation, bribery, reward, or offer of reward;

22 (6) influence or attempt to influence a voter's decision whether to go to
23 the polls to cast a vote through the use of force, fraud, threat, menace, intimidation,
24 bribery, reward, or offer of reward; [or]

25 (7) engage in conduct that results or has the intent to result in the
26 denial or abridgement of the right of any citizen of the United States to vote on
27 account of race, color, or disability; **OR**

28 **(8) ENGAGE IN CONDUCT THAT RESULTS OR HAS THE INTENT TO**
29 **RESULT IN THE DISRUPTION OF POLLING PLACE ACTIVITIES.**

30 **(B) (1) WHENEVER A PERSON, POLITICAL COMMITTEE, CAMPAIGN**
31 **FINANCE ENTITY, OR OTHER ORGANIZATION OR ENTITY HAS ENGAGED OR**

1 THERE IS REASONABLE GROUNDS TO BELIEVE THAT A PERSON, POLITICAL
2 COMMITTEE, CAMPAIGN FINANCE ENTITY, OR OTHER ORGANIZATION OR ENTITY
3 IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE PROHIBITED BY SUBSECTION (A)
4 OF THIS SECTION, THE ATTORNEY GENERAL OR ANY REGISTERED VOTER MAY
5 INSTITUTE AN ACTION IN A CIRCUIT COURT OF THE STATE FOR PREVENTIVE
6 RELIEF, INCLUDING AN APPLICATION FOR A TEMPORARY OR PERMANENT
7 INJUNCTION, RESTRAINING ORDER, OR OTHER ORDER.

8 (2) THE CIRCUIT COURT SHALL HEAR AND DETERMINE THE
9 MATTER IMMEDIATELY ON FILING OF THE APPLICATION.

10 (3) THE GRANT OF A REMEDY BY THE CIRCUIT COURT UNDER
11 THIS SUBSECTION DOES NOT PRECLUDE ANY OTHER REMEDY AVAILABLE TO A
12 PERSON UNDER STATE OR FEDERAL LAW.

13 (4) THE CIRCUIT COURT SHALL:

14 (I) HAVE JURISDICTION OF ANY PROCEEDING INSTITUTED
15 IN ACCORDANCE WITH THIS SUBSECTION; AND

16 (II) EXERCISE ITS JURISDICTION WITHOUT REGARD TO
17 WHETHER A PERSON ASSERTING A RIGHT UNDER THIS SUBSECTION HAS
18 EXHAUSTED ANY ADMINISTRATIVE OR OTHER REMEDY AVAILABLE TO THAT
19 PERSON UNDER LAW.

20 [(b)] (C) Except as provided in § 16–1002 of this title, a person who violates
21 this section is guilty of a misdemeanor and on conviction is subject to a fine of not
22 more than \$2,500 or imprisonment for not more than 5 years or both.

23 [(c)] (D) A person who violates this section is subject to § 5–106(b) of the
24 Courts Article.

25 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
26 take effect January 1, 2009.

27 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in
28 Section 3 of this Act, this Act shall take effect July 1, 2008.