# SENATE BILL 163

EMERGENCY BILL (PRE–FILED) 2lr0833

By: Senator Kagan Senators Kagan, Ellis, Hester, Lam, Pinsky, and Washington

Requested: October 19, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 9, 2022

CHAPTER \_\_\_\_\_

## 1 AN ACT concerning

2

G1

### Election Law - Ballots - Processing and Reporting Procedures

- FOR the purpose of altering the procedures for the canvassing of and curing of errors on absentee and provisional ballots; repealing the requirements that a certain statement of election results be by precinct and that the local boards of elections publish copies of the complete election results in a certain manner; requiring that all a certain report of election results by the State Board of Elections be reported by precinct, including reports of the early, absentee, and provisional vote; and generally relating to ballot processing and reporting procedures.
- 10 BY repealing and reenacting, with amendments,
- 11 Article Election Law
- 12 Section <u>11–101</u>, 11–302, 11–303(d), and 11–402
- 13 Annotated Code of Maryland
- 14 (2017 Replacement Volume and 2021 Supplement)
- 15 BY adding to
- 16 Article Election Law
- 17 Section 11–303.2
- 18 Annotated Code of Maryland
- 19 (2017 Replacement Volume and 2021 Supplement)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 21 That the Laws of Maryland read as follows:

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



**(**2)

provisional ballot count.]

30

31

1	Article – Election Law
2	<u>11–101.</u>
3	(a) In this title the following words have the meanings indicated.
4 5 6	(b) "Board of canvassers" means the local board of elections in a county after the local board organizes itself for the purpose of canvassing the vote [after] FOR an election in that county.
7 8 9	(c) (1) "Canvass" means the entire process of vote tallying, vote tabulation, and vote verification [or audit], culminating in the production and certification of the official election results.
$egin{array}{c} 10 \\ 11 \\ 2 \end{array}$	(2) For absentee ballots, the "canvass" includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots [in preparation for vote tallying].
13 14 15	(3) For provisional ballots, the "canvass" includes the review of the provisional ballot applications described in § 11–303 of this title and the assembly and review of provisional ballots [in preparation for vote tallying].
16 17	(4) For votes cast during early voting, the "canvass" includes the VOTE tabulation [of votes cast] during early voting.
18	(5) For votes cast in a special election conducted by mail under Title 9, Subtitle 5 of this article, the "canvass" includes:
20 21 22	(i) the opening of any envelope accompanying a vote-by-mail ballot and the assembly and review of vote-by-mail ballots in preparation for vote tabulation; and
23	(ii) the tabulation of vote-by-mail ballots.
24 25	(d) "Counting center" means one or more central locations designated by a local board to conduct the canvass.
26 27	(e) <u>"Removable data storage device" means a read—only memory device that is programmed to record votes as they are cast on an electronic voting system.</u>
28 29	(f) [(1)] "Unofficial returns" means [a] vote [tabulation] TOTALS reported on election night after the polls close.

"Unofficial returns" does not include the absentee ballot count or the

1 2		ote tabulation" or "vote counting" means the aggregation of the votes cast oters to produce vote totals at any level.
3 4	<del></del>	ote tallying" means the recording of votes cast by individual voters on a system [whether done by:
5	(	a mechanical lever voting machine;
6	(2	an electronic voting device; or
7	<u>(</u> 3	making marks manually on a tally sheet].

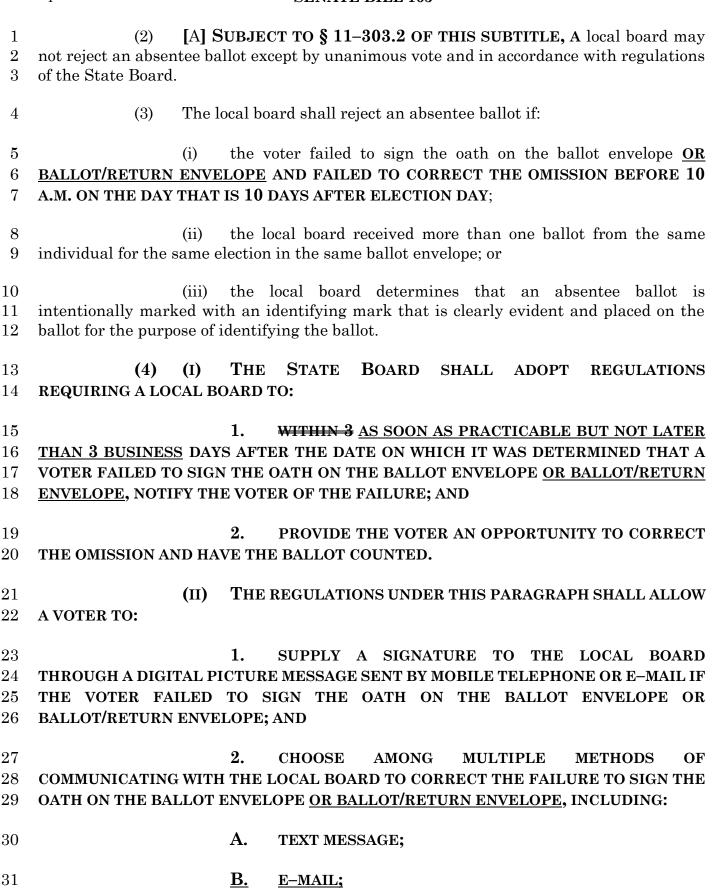
9 (a) (1) [Following an election, each] EACH local board shall meet at its 10 designated counting center to canvass the absentee ballots cast in that election in 11 accordance with the regulations and guidelines established by the State Board.

8

11 - 302.

- 12 **(2)** AFTER THE COMMENCEMENT OF THE CANVASS OF ABSENTEE
  13 BALLOTS IN ACCORDANCE WITH THIS SECTION, A LOCAL BOARD SHALL REVIEW THE
  14 BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE FOR THE OMISSION OF THE
  15 VOTER'S SIGNATURE ON THE OATH.
- 16 (b) (1) [A] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A local board may not [open] ACCEPT, REJECT, OPEN, OR PROCESS any envelope of an absentee ballot [prior to] BEFORE 8 a.m. on the [Wednesday following election day] DAY THAT IS 8 BUSINESS DAYS BEFORE THE FIRST DAY OF EARLY VOTING.
- 20 (2) A local board may not delay the commencement of the canvass to await the receipt of late–arriving, timely absentee ballots.
- 22 (3) A LOCAL BOARD <u>OR AN EMPLOYEE OF A LOCAL BOARD</u> MAY NOT 23 TABULATE RELEASE ABSENTEE BALLOT RESULTS VOTE TOTALS BEFORE ELECTION 24 DAY.
- 25 (c) (1) An absentee ballot shall be deemed timely received if it is received in accordance with the regulations and guidelines established by the State Board.
- 27 (2) An absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.
- 29 (d) (1) The State Board shall adopt regulations that reflect the policy that the 30 clarity of the intent of the voter is the overriding consideration in determining the validity 31 of an absentee ballot or the vote cast in a particular contest.

32



**B.** C. AN ACCESSIBLE ONLINE PORTAL;

#### 1 €. D. A MAILED FORM; AND 2 <del>D.</del> E. AN IN-PERSON VISIT TO THE LOCAL BOARD OFFICE. If the local board receives more than one legally sufficient ballot, 3 [(4)] (5) in separate envelopes, from the same individual, the local board shall: 4 5 (i) count only the ballot with the [latest] FIRST properly signed 6 oath; and 7 (ii) reject any other ballot. 8 [(5)] **(6)** If the intent of the voter is not clearly demonstrated, the local 9 board shall reject only the vote for that office or question. 10 [(6)] **(7)** If an absentee voter casts a vote for an individual who has ceased to be a candidate, the vote for that candidate may not be counted, but that vote does not 11 12 invalidate the remainder of the ballot. 13 [At] BEGINNING AFTER THE POLLS CLOSE ON ELECTION DAY, AT the end of each day of canvassing, a local board shall prepare and release a report of the unofficial 14 results RETURNS of the absentee ballot vote tabulation. 15 11 - 303.16 17 [A] SUBJECT TO § 11–303.2 OF THIS SUBTITLE, A local board may 18 not reject a provisional ballot except by unanimous vote and in accordance with regulations of the State Board. 19 20 (2)The local board shall reject a provisional ballot if: 21(i) pursuant to paragraph (4) of this subsection, the local board 22determines that the individual who cast the provisional ballot is not qualified to vote that 23 provisional ballot; 24(ii) the individual failed to sign the oath on the provisional ballot 25application; 26 the individual cast more than one ballot for the same election; or (iii) 27 (iv) the local board determines that a provisional ballot is 28 intentionally marked with an identifying mark that is clearly evident and placed on the 29ballot for the purpose of identifying the ballot.

- 1 (3) If the intent of the voter with respect to a particular contest is not 2 clearly demonstrated, the local board shall reject only the vote for that contest.
- 3 (4) For the purposes of this section, an individual is qualified to vote the 4 provisional ballot cast if the local board determines that:
- 5 (i) the individual is registered in the State;
- 6 (ii) if the provisional ballot was cast because the voter failed to 7 provide required identification, the individual who cast the provisional ballot has met the 8 identification requirements established by the State Board; and
- 9 (iii) if the provisional ballot was cast during a period covered by a 10 court order or other order extending the time for closing the polls, the order has not been 11 invalidated by a subsequent court order.
- 12 **11–303.2.**
- 13 (A) A LOCAL BOARD SHALL COUNT AN ABSENTEE BALLOT AND REJECT A
  14 PROVISIONAL BALLOT CAST BY THE SAME INDIVIDUAL IF THE LOCAL BOARD:
- 15 (1) RECEIVED THE ABSENTEE BALLOT BEFORE THE COMMENCEMENT 16 OF THE CANVASS OF PROVISIONAL BALLOTS; AND
- 17 (2) (I) THE ABSENTEE BALLOT WAS LEGALLY SUFFICIENT WHEN 18 RECEIVED; OR
- 19 (II) 1. THE ABSENTEE BALLOT WAS LEGALLY INSUFFICIENT 20 DUE TO THE FAILURE OF THE VOTER TO SIGN THE OATH ON THE BALLOT ENVELOPE; 21 AND
- 22 2. THE VOTER CORRECTED THE OMISSION UNDER § 23 11–302 OF THIS SUBTITLE.
- 24 (B) A LOCAL BOARD SHALL COUNT A PROVISIONAL BALLOT AND REJECT AN 25 ABSENTEE BALLOT CAST BY THE SAME INDIVIDUAL IF:
- 26 (1) THE LOCAL BOARD RECEIVED THE ABSENTEE BALLOT AFTER THE COMMENCEMENT OF THE CANVASS OF PROVISIONAL BALLOTS; AND
- 28 (2) THE PROVISIONAL BALLOT IS LEGALLY SUFFICIENT.
- 29 11–402.

