

SENATE BILL 58

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7lr0738

(PRE-FILED)

By: **Senators Kagan and Rosapepe**

Requested: September 29, 2016

Introduced and read first time: January 11, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Election Observers**

3 FOR the purpose of requiring a copy of a list of registered voters to be provided to an election
4 observer on receipt of certain documentation; requiring an election judge to protect
5 an election observer in the exercise of certain rights; providing that an election judge
6 is not required, under certain circumstances, to admit an election observer to a
7 polling place before the polls open; authorizing an election judge, under certain
8 circumstances, to require election observers to leave a polling place before it opens;
9 requiring an election judge to designate reasonable times for election observers to
10 examine polling lists; requiring a police officer who is on duty at a polling place to
11 protect an election observer in the discharge of duties of the election observer;
12 requiring an election judge to allow an election observer to have access to the voting
13 room at a polling place; requiring an election judge, except under certain
14 circumstances, to admit an election observer a certain amount of time before the
15 polling place is open; providing that, except under certain circumstances, an election
16 observer has certain rights; providing that certain documentation is sufficient
17 evidence of the right of an election observer to be present in the voting room;
18 prohibiting an election observer from attempting to take certain action; authorizing
19 an election judge to eject an election observer who violates a certain prohibition;
20 clarifying that election observers may be present during a canvass conducted by a
21 local board of elections; defining a certain term; and generally relating to election
22 observers.

23 BY adding to
24 Article – Election Law
25 Section 1–101(w–1) and 10–311.1
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2016 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Election Law

Section 3–506, 10–303(d), 10–304, 10–308, 10–309, and 11–301(a–1)

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

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

Article – Election Law

1–101.

**(W–1) “ELECTION OBSERVER” MEANS AN INDIVIDUAL WHO IS DESIGNATED AS
AN ELECTION OBSERVER UNDER § 10–311.1 OF THIS ARTICLE.**

3–506.

(a) (1) A copy of a list of registered voters shall be provided to a Maryland
registered voter **OR AN ELECTION OBSERVER** on receipt of:

- (i) a written application; and
- (ii) a statement, signed under oath, that the list is not intended to be
used for:
 - 1. commercial solicitation; or
 - 2. any other purpose not related to the electoral process.

(2) In consultation with the local boards, the State Board shall adopt
regulations that specify:

- (i) the time for a list to be provided under this subsection;
- (ii) the authorization to be required for providing a list;
- (iii) the fee to be paid for providing a list;
- (iv) the information to be included on a list;
- (v) that the residence address of an individual who is a participant
in an address confidentiality program may not be disclosed;
- (vi) that a participant in an address confidentiality program is not
required to apply to the State Board to keep the individual’s residence address confidential;
- (vii) the format of the information; and

(viii) the medium or media on which the information is to be provided.

(b) (1) The State Administrator or a designee shall provide a copy of the statewide voter registration list and voter registration records to a jury commissioner on request and without charge by means agreed to with the Administrative Office of the Courts.

(2) On application of the Attorney General, a circuit court may compel compliance with paragraph (1) of this subsection.

(c) A person who knowingly allows a list of registered voters, under the person's control, to be used for any purpose not related to the electoral process is guilty of a misdemeanor and, on conviction, is subject to the penalties under Title 16 of this article.

10-303.

(d) (1) An election judge shall protect:

(I) a challenger or watcher in the exercise of the rights of a challenger or watcher as provided in § 10-311 of this subtitle; **AND**

(II) **AN ELECTION OBSERVER IN THE EXERCISE OF RIGHTS OF AN ELECTION OBSERVER AS PROVIDED IN § 10-311.1 OF THIS SUBTITLE.**

(2) (i) An election judge is not required to admit a challenger [or], A watcher, **OR AN ELECTION OBSERVER** to a polling place before the polls open if the challenger [or], watcher, **OR ELECTION OBSERVER** was not present at the polling place at least one-half hour before its opening.

(ii) An election judge may require challengers [and], watchers, **AND ELECTION OBSERVERS** to leave a polling place before it opens if a majority of the election judges present agrees that the presence of the challengers [and], watchers, **AND ELECTION OBSERVERS** will prevent the timely opening of the polling place.

(3) An election judge shall designate reasonable times for challengers [and], watchers, **AND ELECTION OBSERVERS** to examine polling lists.

10-304.

(a) (1) A police officer who is on duty at a polling place shall obey the order of an election judge for that polling place.

(2) A police officer making an arrest under an order of an election judge is fully protected in so doing as if the police officer received a valid warrant to make the arrest.

(b) A police officer who is on duty at a polling place shall protect a challenger [or],
A watcher, **OR AN ELECTION OBSERVER** in the discharge of the duties of the challenger
[or], watcher, **OR ELECTION OBSERVER**.

10–308.

(a) An election judge shall allow the following individuals to have access to the
voting room at a polling place:

(1) a voter;

(2) an individual who accompanies a voter in need of assistance in
accordance with § 10–310(c) of this subtitle;

(3) polling place staff;

(4) a member or other representative of the State Board or local board;

(5) an accredited watcher or challenger under § 10–311 of this subtitle;

(6) an individual under the age of 18 who accompanies a voter in
accordance with § 10–310(c) of this subtitle, provided that:

(i) the individual is in the care of the voter and does not disrupt or
interfere with normal voting procedures; and

(ii) the individual is not eligible to vote in that election; [and]

(7) AN ELECTION OBSERVER UNDER § 10–311.1 OF THIS SUBTITLE;

AND

[(7)] (8) any other individual authorized by the State Board or local
board.

(b) Notwithstanding the provisions of subsection (a)(6) of this section, not more
than two individuals under the age of 18 may accompany a voter in accordance with §
10–310(c) of this subtitle.

10–309.

(a) In accordance with instructions provided by the election director, an election
judge shall arrive at the polling place and, under the direction of the chief judge, set up the
polling place to assure that the polls will be open and operational at 7 a.m.

(b) Except as provided in § 10–303(d)(2)(ii) of this subtitle, an election judge shall admit an accredited challenger [or], watcher, **OR ELECTION OBSERVER** one-half hour before the polling place is open.

10–311.1.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FOLLOWING PERSONS OR ENTITIES HAVE THE RIGHT TO DESIGNATE A REGISTERED VOTER AS AN ELECTION OBSERVER AT EACH PLACE OF REGISTRATION AND ELECTION:

(I) THE STATE BOARD FOR ANY POLLING PLACE IN THE STATE;

(II) A LOCAL BOARD FOR ANY POLLING PLACE LOCATED IN THE COUNTY OF THE LOCAL BOARD;

(III) AN ACADEMIC INSTITUTION ENGAGED IN RESEARCH ON ELECTIONS AND THE ELECTION PROCESS.

(2) TO BE DESIGNATED AS AN ELECTION OBSERVER, AN INDIVIDUAL MUST BE:

(I) ENGAGED IN RESEARCH ON ELECTIONS AND THE ELECTION PROCESS; OR

(II) AN INTERNATIONAL ELECTION OBSERVER.

(3) A PERSON WHO DESIGNATES AN ELECTION OBSERVER MAY REMOVE THE ELECTION OBSERVER AT ANY TIME.

(B) EXCEPT AS PROVIDED IN § 10–303(D)(2) OF THIS SUBTITLE AND SUBSECTION (D) OF THIS SECTION, AN ELECTION OBSERVER HAS THE RIGHT TO:

(1) ENTER THE POLLING PLACE ONE-HALF HOUR BEFORE THE POLLS OPEN;

(2) ENTER OR BE PRESENT AT THE POLLING PLACE AT ANY TIME WHEN THE POLLS ARE OPEN;

(3) REMAIN IN THE POLLING PLACE UNTIL THE COMPLETION OF ALL TASKS ASSOCIATED WITH THE CLOSE OF THE POLLS UNDER § 10–314 OF THIS SUBTITLE AND THE ELECTION JUDGES LEAVE THE POLLING PLACE;

(4) MAINTAIN A LIST OF REGISTERED VOTERS WHO HAVE VOTED, OR INDIVIDUALS WHO HAVE CAST PROVISIONAL BALLOTS, AND TAKE THE LIST OUTSIDE THE POLLING PLACE; AND

(5) ENTER AND LEAVE A POLLING PLACE FOR THE PURPOSE OF TAKING OUTSIDE THE POLLING PLACE INFORMATION THAT IDENTIFIES REGISTERED VOTERS WHO HAVE CAST BALLOTS OR INDIVIDUALS WHO HAVE CAST PROVISIONAL BALLOTS.

(C) A CERTIFICATE SIGNED BY THE STATE BOARD, A LOCAL BOARD, OR AN ACADEMIC INSTITUTION SHALL BE SUFFICIENT EVIDENCE OF THE RIGHT OF AN ELECTION OBSERVER TO BE PRESENT IN THE VOTING ROOM.

(D) (1) AN ELECTION OBSERVER MAY NOT ATTEMPT TO:

(I) ASCERTAIN HOW A VOTER VOTED OR INTENDS TO VOTE;

(II) CONVERSE IN THE POLLING PLACE WITH ANY VOTER;

(III) ASSIST ANY VOTER IN VOTING; OR

(IV) PHYSICALLY HANDLE AN ORIGINAL ELECTION DOCUMENT.

(2) AN ELECTION JUDGE MAY EJECT AN ELECTION OBSERVER WHO VIOLATES THE PROHIBITIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(E) THE STATE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH A PROCESS FOR VERIFYING THAT AN INDIVIDUAL SEEKING TO BE DESIGNATED AS AN ELECTION OBSERVER MEETS THE REQUIREMENT OF SUBSECTION (A)(2) OF THIS SECTION.

11-301.

(a-1) (1) Subject to paragraph (3) of this subsection, a board of canvassers and the staff of a local board may be observed as they complete each part of the canvass by authorized observers designated under paragraph (2) of this subsection and any other individuals, INCLUDING ELECTION OBSERVERS, who wish to be present.

(2) The following individuals or entities have the right to designate a registered voter as an observer at each counting center:

(i) a candidate;

(ii) a political party; and

1 (iii) any other group of voters supporting or opposing a candidate,
2 principle, or proposition on the ballot.

3 (3) The State Board may adopt regulations prohibiting public observation
4 of a part of the canvass only if prohibiting public observation is necessary to ensure:

5 (i) the integrity or accuracy of the canvass; or

6 (ii) that the canvass process is not impeded.

7 (4) The State Board shall ensure that the requirements of this subsection
8 are implemented uniformly and consistently by each local board.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.