
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1704 Session of
2021

INTRODUCED BY DAVIDSON AND SANCHEZ, JUNE 24, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 24, 2021

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," in preliminary provisions, further providing for
12 definitions; and, in voting by qualified absentee electors,
13 further providing for canvassing of official absentee ballots
14 and mail-in ballots.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Sections 102(a.1) and (q.1) and 1308(a), (d) and
18 (g) (1), (1.1), (2), (3) and (4) of the act of June 3, 1937
19 (P.L.1333, No.320), known as the Pennsylvania Election Code,
20 amended or added March 27, 2020 (P.L.41, No.12), are amended to
21 read:

22 Section 102. Definitions.--The following words, when used in
23 this act, shall have the following meanings, unless otherwise
24 clearly apparent from the context:

1 * * *

2 (a.1) The word "canvass" shall mean the gathering of ballots
3 [after the final pre-canvass meeting] and the counting,
4 computing and tallying of the votes reflected on the ballots.

5 * * *

6 (q.1) The word "pre-canvass" shall mean the inspection and
7 opening of all envelopes containing official absentee ballots or
8 mail-in ballots, the removal of such ballots from the envelopes
9 and [the counting, computing and tallying of the votes reflected
10 on the ballots.] the preparation of those ballots for scanning,
11 including unfolding, straightening and duplicating if the ballot
12 is damaged in some way that prevents it from being scanned but
13 where the voter's intent is still clear. It shall also include
14 scanning the ballot into a voting machine or other automatic
15 tabulating device, if the equipment used by the county board of
16 elections permits a ballot to be scanned without tabulating or
17 counting the votes on the ballot scanned. The term does not
18 include the recording or publishing of the votes reflected on
19 the ballots.

20 * * *

21 Section 1308. [Canvassing] Processing of Official Absentee
22 Ballots and Mail-in Ballots.--(a) The county boards of
23 election, upon receipt of official absentee ballots in sealed
24 official absentee ballot envelopes as provided under this
25 article and mail-in ballots as in sealed official mail-in ballot
26 envelopes as provided under Article XIII-D, shall safely keep
27 the ballots in sealed or locked containers until they are to be
28 [canvassed] processed by the county board of elections. An
29 absentee ballot, whether issued to a civilian, military or other
30 voter during the regular or emergency application period, shall

1 be [canvassed] processed in accordance with subsection (g). A
2 mail-in ballot shall be [canvassed] processed in accordance with
3 subsection (g).

4 * * *

5 (d) Whenever it shall appear by due proof that any absentee
6 elector or mail-in elector who has returned his ballot in
7 accordance with the provisions of this act has died prior to the
8 opening of the polls on the day of the primary or election, the
9 ballot of such deceased elector shall be rejected by the
10 [canvassers] county board of election but the counting of the
11 ballot of an absentee elector or a mail-in elector thus deceased
12 shall not of itself invalidate any nomination or election.

13 * * *

14 (g) (1) (i) An absentee ballot cast by any qualified
15 absentee elector as defined in section 1301(a), (b), (c), (d),
16 (e), (f), (g) and (h) shall be canvassed in accordance with this
17 subsection if the ballot is cast, submitted and received in
18 accordance with the provisions of 25 Pa.C.S. Ch. 35 (relating to
19 uniform military and overseas voters).

20 (ii) [An] Subject to the provisions of paragraph (1.1), an
21 absentee ballot cast by any absentee elector as defined in
22 section 1301(i), (j), (k), (l), (m) and (n), an absentee ballot
23 under section [1302(a.3)] 1302.1(a.3) or a mail-in ballot cast
24 by a mail-in elector shall be canvassed in accordance with this
25 subsection if the absentee ballot or mail-in ballot is received
26 in the office of the county board of elections no later than
27 eight o'clock P.M. on the day of the primary or election.

28 (1.1) The county board of elections [shall meet no earlier
29 than seven o'clock A.M. on election day to pre-canvass all
30 ballots received prior to the meeting.] may begin processing

1 official absentee ballots and mail-in ballots no earlier than
2 seven o'clock A.M. on the fourteenth day immediately preceding
3 the election, during the hours of seven o'clock A.M. to seven
4 o'clock P.M. each day, including holidays and weekends, if the
5 number of absentee ballots and mail-in ballots sent by the
6 county to registered voters indicates that extra time will be
7 needed to ensure that all ballots can be processed, counted and
8 tallied prior to eleven o'clock P.M. on the day of the election.

9 A county board of elections shall provide at least forty-eight
10 hours' notice of [a pre-canvass meeting] the first day that pre-
11 election day ballot processing will begin by publicly posting a
12 notice [of a pre-canvass meeting] of the dates and times
13 processing will occur on its publicly accessible Internet
14 website. One authorized representative of each candidate in an
15 election and one representative from each political party shall
16 be permitted to remain in the room in which the absentee ballots
17 and mail-in ballots are [pre-canvassed] processed. No person
18 observing, attending or participating [in a pre-canvass meeting]
19 any ballot processing activities may disclose the results of any
20 portion of any [pre-canvass meeting] ballot processing prior to
21 the close of the polls[.] on election day. A person who makes an
22 unauthorized disclosure under this paragraph shall be guilty of
23 a misdemeanor of the first degree.

24 (2) The county board of elections shall meet no earlier than
25 the close of polls on the day of the election and no later than
26 the third day following the election to begin canvassing
27 absentee ballots and mail-in ballots not [included in the pre-
28 canvass meeting] processed under paragraph (1). The meeting
29 under this paragraph shall continue until all absentee ballots
30 and mail-in ballots received prior to the close of the polls

1 have been canvassed. The county board of elections shall not
2 record or publish any votes reflected on the ballots prior to
3 the close of the polls. The canvass process shall continue
4 through the eighth day following the election for valid
5 military-overseas ballots timely received under 25 Pa.C.S. §
6 3511 (relating to receipt of voted ballot). A county board of
7 elections shall provide at least forty-eight hours' notice of a
8 canvass meeting by publicly posting a notice on its publicly
9 accessible Internet website. One authorized representative of
10 each candidate in an election and one representative from each
11 political party shall be permitted to remain in the room in
12 which the absentee ballots and mail-in ballots are canvassed.

13 (3) When the county board meets to [pre-canvass] process or
14 canvass absentee ballots and mail-in ballots under paragraphs
15 (1), (1.1) and (2), the board shall examine the declaration on
16 the envelope of each ballot not set aside under subsection (d)
17 and shall compare the information thereon with that contained in
18 the "Registered Absentee and Mail-in Voters File," the absentee
19 voters' list and/or the "Military Veterans and Emergency
20 Civilians Absentee Voters File," whichever is applicable. If the
21 county board has verified the proof of identification as
22 required under this act and is satisfied that the declaration is
23 sufficient and the information contained in the "Registered
24 Absentee and Mail-in Voters File," the absentee voters' list
25 and/or the "Military Veterans and Emergency Civilians Absentee
26 Voters File" verifies his right to vote, the county board shall
27 provide a list of the names of electors whose absentee ballots
28 or mail-in ballots are to be [pre-canvassed] processed or
29 canvassed.

30 (4) All absentee ballots which have not been challenged

1 under section 1302.2(c) and all mail-in ballots which have not
2 been challenged under section 1302.2-D(a)(2) and that have been
3 verified under paragraph (3) shall be counted and included with
4 the returns of the applicable election district as follows:

5 (i) The county board shall open the envelope of every
6 unchallenged absentee elector and mail-in elector in such manner
7 as not to destroy the declaration executed thereon.

8 (ii) If any of the envelopes on which are printed, stamped
9 or endorsed the words "Official Election Ballot" contain any
10 text, mark or symbol which reveals the identity of the elector,
11 the elector's political affiliation or the elector's candidate
12 preference, the envelopes and the ballots contained therein
13 shall be set aside and declared void.

14 (iii) [The] The following apply:

15 (A) In the case of absentee ballots and mail-in ballots
16 processed during the time allotted in paragraph (1.1), after the
17 ballots have been processed, they shall be locked and sealed in
18 tamper-proof containers and secured in a locked secure location
19 at the county board of election's physical location and
20 otherwise retained subject to the provisions of this act
21 regarding retention and safekeeping of canvassed ballots in
22 general.

23 (B) In the case of absentee ballots and mail-in ballots not
24 processed under paragraph (1.1), the county board shall then
25 break the seals of such envelopes, remove the ballots and count,
26 compute and tally the votes.

27 (iv) Following the close of the polls, the county board
28 shall record and publish the votes reflected on the ballots.

29 * * *

30 Section 2. This act shall take effect immediately.