

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2626 Session of 2020

INTRODUCED BY MOUL, RYAN, JAMES, STAATS, MILLARD, PYLE, THOMAS AND MENTZER, JUNE 23, 2020

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 23, 2020

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 the Secretary of the Commonwealth, further
 12 providing for powers and duties of the Secretary of the
 13 Commonwealth; in county boards of elections, further
 14 providing for powers and duties of county boards; in
 15 preparation for and conduct of primaries and elections,
 16 providing for deadline for change of enrollment of political
 17 party; in voting by qualified absentee electors, further
 18 providing for applications for official absentee ballots, for
 19 date of application for absentee ballot, for approval of
 20 application for absentee ballot, for official absentee voters
 21 ballots, for voting by absentee electors and for canvassing
 22 of official absentee ballots and mail-in ballots; in voting
 23 by qualified mail-in electors, further providing for
 24 applications for official mail-in ballots, for date of
 25 application for mail-in ballot, for official mail-in elector
 26 ballots and for voting by mail-in electors; and making a
 27 related repeal.

28 The General Assembly of the Commonwealth of Pennsylvania
 29 hereby enacts as follows:

30 Section 1. Section 201 of the act of June 3, 1937 (P.L.1333,

1 No.320), known as the Pennsylvania Election Code, is amended by
2 adding a subsection to read:

3 Section 201. Powers and Duties of the Secretary of the
4 Commonwealth.--The Secretary of the Commonwealth shall exercise
5 in the manner provided by this act all powers granted to him by
6 this act, and shall perform all the duties imposed upon him by
7 this act, which shall include the following:

8 * * *

9 (i) To develop a tracking system by which each ballot,
10 absentee ballot and mail-in ballot is assigned a unique
11 scannable identification number to ensure that multiple ballots
12 are not cast by a qualified elector.

13 Section 2. Section 302(p) of the act, amended March 27, 2020
14 (P.L.41, No.12), is amended and the section is amended by adding
15 a subsection to read:

16 Section 302. Powers and Duties of County Boards.--The county
17 boards of elections, within their respective counties, shall
18 exercise, in the manner provided by this act, all powers granted
19 to them by this act, and shall perform all the duties imposed
20 upon them by this act, which shall include the following:

21 * * *

22 (p) A county board of elections shall not pay compensation
23 to a judge of elections who wilfully fails to deliver by two
24 o'clock A. M. on the day following the election envelopes;
25 supplies, including all uncast provisional ballots; and returns,
26 including all provisional ballots cast in the election district
27 and [statements signed under sections 1306 and 1302-D.]
28 completed absentee ballot and envelopes containing the
29 declaration of the elector received by the judge of elections
30 under sections 1306(b)(3) and 1306-D(b)(3).

1 (g) To administer the ballot tracking system developed by
2 the Secretary of the Commonwealth under section 201(i) as
3 prescribed and directed by the Secretary of the Commonwealth.

4 Section 3. The act is amended by adding a section to read:

5 Section 1231.1. Deadline for Change of Enrollment of
6 Political Party.--Not later than thirty days prior to an
7 election, a registered elector who desires to change the
8 enrollment of political designation or who, although registered,
9 has not previously enrolled as a member of a party may appear
10 before a commissioner, registrar or clerk or may submit an
11 application by mail under 25 Pa.C.S. § 1324 (relating to
12 application by mail) and state in a signed writing the political
13 party in which the registered elector desires to be enrolled. If
14 the signature of the elector is verified by comparison with the
15 registered elector's signature as it appears on file with the
16 commission, the commissioner, registrar or clerk shall make the
17 change in its registration records. If supported by other
18 evidence of identity, a mark may be made in lieu of a signature
19 by a registered elector who is unable to write. The mark must be
20 made in the presence of a witness who must sign the registration
21 application.

22 Section 4. Section 1302(i)(1) of the act, amended March 27,
23 2020 (P.L.41, No.12), is amended to read:

24 Section 1302. Applications for Official Absentee Ballots.--*

25 * *

26 (i) (1) Application for official absentee ballots shall be
27 on physical and electronic forms prescribed by the Secretary of
28 the Commonwealth.

29 (1.1) The application shall state that an elector who
30 applies for an absentee ballot pursuant to section 1301 shall

1 not be eligible to vote at a polling place on election day
2 [unless the elector brings the elector's absentee ballot to the
3 elector's polling place, remits the ballot and the envelope
4 containing the declaration of the elector to the judge of
5 elections to be spoiled and signs a statement subject to the
6 penalties of 18 Pa.C.S. § 4904 (relating to unsworn
7 falsification to authorities) to the same effect.] except by
8 provisional ballot. The application shall also state that an
9 elector may deliver an absentee ballot and the envelope
10 containing the declaration of the elector to the judge of
11 elections of the elector's election district at the elector's
12 polling place during the hours that the polling place is open on
13 election day.

14 (1.2) [Such physical] Physical application forms shall be
15 made freely available to the public at county board of
16 elections, municipal buildings and at such other locations
17 designated by the secretary.

18 (1.3) [Such electronic] Electronic application forms shall
19 be made freely available to the public through publicly
20 accessible means.

21 (1.4) No written application or personal request shall be
22 necessary to receive or access the application forms.

23 (1.5) Copies and records of all completed physical and
24 electronic applications for official absentee ballots shall be
25 retained by the county board of elections.

26 * * *

27 Section 5. Section 1302.1(a) and (a.3)(1) and (2) of the
28 act, amended October 31, 2019 (P.L.552, No.77), are amended to
29 read:

30 Section 1302.1. Date of Application for Absentee Ballot.--

1 (a) Except as provided in subsection (a.3), applications for
2 absentee ballots shall be received in the office of the county
3 board of elections not earlier than fifty (50) days before the
4 primary or election, except that if a county board of elections
5 determines that it would be appropriate to its operational
6 needs, any applications for absentee ballots received more than
7 fifty (50) days before the primary or election may be processed
8 before that time. Applications for absentee ballots shall be
9 processed if received not later than five o'clock P.M. of the
10 [first Tuesday] fifteenth day prior to the day of any primary or
11 election.

12 (a.3) (1) The following categories of electors may apply
13 for an absentee ballot under this subsection, if otherwise
14 qualified:

15 (i) An elector whose physical disability or illness
16 prevented the elector from applying for an absentee ballot
17 before five o'clock P.M. on the [first Tuesday] fifteenth day
18 prior to the day of the primary or election.

19 (ii) An elector who, because of the elector's business,
20 duties or occupation, was unable to apply for an absentee ballot
21 before five o'clock P.M. on the [first Tuesday] fifteenth day
22 prior to the day of the primary or election.

23 (iii) An elector who becomes so physically disabled or ill
24 after five o'clock P.M. on the [first Tuesday] fifteenth day
25 prior to the day of the primary or election that the elector is
26 unable to appear at the polling place on the day of the primary
27 or election.

28 (iv) An elector who, because of the conduct of the elector's
29 business, duties or occupation, will necessarily be absent from
30 the elector's municipality of residence on the day of the

1 primary or election, which fact was not and could not reasonably
2 be known to the elector on or before five o'clock P.M. on the
3 [first Tuesday] fifteenth day prior to the day of the primary or
4 election.

5 (2) An elector described in paragraph (1) may submit an
6 application for an absentee ballot at any time up until the time
7 of the closing of the polls on the day of the primary or
8 election. The application shall include a declaration describing
9 the circumstances that prevented the elector from applying for
10 an absentee ballot before five o'clock P.M. on the [first
11 Tuesday] fifteenth day prior to the day of the primary or
12 election or that prevent the elector from appearing at the
13 polling place on the day of the primary or election, and the
14 elector's qualifications under paragraph (1). The declaration
15 shall be made subject to the provisions of 18 Pa.C.S. § 4904
16 (relating to unsworn falsification to authorities).

17 * * *

18 Section 6. Sections 1302.2(c), 1303(e) and 1306(a)
19 introductory paragraph and (b)(3) of the act, amended March 27,
20 2020 (P.L.41, No.12), are amended to read:

21 Section 1302.2. Approval of Application for Absentee
22 Ballot.--

23 * * *

24 (c) The county board of elections, upon receipt of any
25 application of a qualified elector required to be registered
26 under the provisions of preceding section 1301, shall determine
27 the qualifications of such applicant by verifying the proof of
28 identification and comparing the information set forth on such
29 application with the information contained on the applicant's
30 permanent registration card. If the board is satisfied that the

1 applicant is qualified to receive an official absentee ballot,
2 the application shall be marked "approved." Such approval
3 decision shall be final and binding, except that challenges may
4 be made only on the ground that the applicant was not a
5 qualified elector. Such challenges must be made to the county
6 board of elections prior to five o'clock p.m. on the Friday
7 prior to the election, or during the pre-canvassing of an
8 elector's absentee ballot, whichever is earlier: Provided,
9 however, That a challenge to an application for an absentee
10 ballot shall not be permitted on the grounds that the elector
11 used an application for an absentee ballot instead of an
12 application for a mail-in ballot or on the grounds that the
13 elector used an application for a mail-in ballot instead of an
14 application for an absentee ballot.

15 * * *

16 Section 1303. Official Absentee Voters Ballots.--* * *

17 (e) The official absentee voter ballot shall state that an
18 elector who receives an absentee ballot pursuant to section 1301
19 and whose voted ballot is not timely received by the commission
20 or voted ballot and the envelope containing the declaration of
21 the elector is timely received by the judge of elections of the
22 elector's election district at the elector's polling place on
23 election day and who, on election day, is capable of voting at
24 the appropriate polling place may only vote on election day by
25 provisional ballot [unless the elector brings the elector's
26 absentee ballot to the elector's polling place, remits the
27 ballot and the envelope containing the declaration of the
28 elector to the judge of elections to be spoiled and signs a
29 statement subject to the penalties under 18 Pa.C.S. § 4904
30 (relating to unsworn falsification to authorities) to the same

1 effect].

2 Section 1306. Voting by Absentee Electors.--(a) Except as
3 provided in paragraphs (2) and (3), at any time after receiving
4 an official absentee ballot, but on or before eight o'clock P.M.
5 the day of the primary or election, the elector shall, in
6 secret, proceed to mark the ballot only in black lead pencil,
7 indelible pencil or blue, black or blue-black ink, in fountain
8 pen or ball point pen, and then fold the ballot, enclose and
9 securely seal the same in the envelope on which is printed,
10 stamped or endorsed "Official Election Ballot." This envelope
11 shall then be placed in the second one, on which is printed the
12 form of declaration of the elector, and the address of the
13 elector's county board of election and the local election
14 district of the elector. The elector shall then fill out, date
15 and sign the declaration printed on such envelope. Such envelope
16 shall then be securely sealed and the elector shall send same by
17 mail, postage prepaid, except where franked, or deliver it in
18 person to said county board of election or to the judge of
19 elections of the elector's election district at the elector's
20 polling place.

21 * * *

22 (b) * * *

23 (3) Notwithstanding paragraph (2), an elector who requests
24 an absentee ballot and who is not shown on the district register
25 as having voted the ballot may [vote at the polling place if the
26 elector remits the ballot and the envelope containing the
27 declaration of the elector to the judge of elections to be
28 spoiled and the elector signs a statement subject to the
29 penalties under 18 Pa.C.S. § 4904 (relating to unsworn
30 falsification to authorities) in substantially the following

1 form:

2 I hereby declare that I am a qualified registered elector who
3 has obtained an absentee ballot or mail-in ballot. I further
4 declare that I have not cast my absentee ballot or mail-in
5 ballot, and that instead I remitted my absentee ballot or
6 mail-in ballot and the envelope containing the declaration of
7 the elector to the judge of elections at my polling place to
8 be spoiled and therefore request that my absentee ballot or
9 mail-in ballot be voided.

10 (Date)

11 (Signature of Elector).....(Address of Elector)

12 (Local Judge of Elections)] deliver the completed absentee
13 ballot to the judge of elections of the elector's election
14 district at the elector's polling place.

15 * * *

16 Section 7. Section 1308(g) (1.1) and (2) of the act, amended
17 March 27, 2020 (P.L.41, No.12), is amended and the section is
18 amended by adding a subsection to read:

19 Section 1308. Canvassing of Official Absentee Ballots and
20 Mail-in Ballots.--* * *

21 (a.1) A judge of elections shall deliver all completed
22 absentee ballots and envelopes containing the declaration of the
23 elector received under sections 1306(b) (3) and 1306-D(b) (3) to
24 the county board of elections by two o'clock A.M. on the day
25 following the election.

26 * * *

27 (g) * * *

28 (1.1) The county board of elections shall meet no earlier
29 than seven o'clock A.M. on election day at the county courthouse
30 or the offices of the county board of election to pre-canvass

1 all ballots received prior to the meeting. A county board of
2 elections shall provide at least forty-eight hours' notice of a
3 pre-canvass meeting by publicly posting a notice of a pre-
4 canvass meeting on its publicly accessible Internet website.
5 [One] The authorized representative of each candidate in an
6 election, the county chairperson of each political party and one
7 representative from each political party shall be permitted to
8 remain in the room in which the absentee ballots and mail-in
9 ballots are pre-canvassed. The proceedings of the pre-canvassing
10 shall be recorded and made available upon request. No person
11 observing, attending or participating in a pre-canvass meeting
12 may disclose the results of any portion of any pre-canvass
13 meeting prior to the close of the polls.

14 (2) The county board of elections shall meet no earlier than
15 the close of polls on the day of the election at the county
16 courthouse or the offices of the county board of election and no
17 later than the third day following the election to begin
18 canvassing absentee ballots and mail-in ballots not included in
19 the pre-canvass meeting. The meeting under this paragraph shall
20 continue until all absentee ballots and mail-in ballots received
21 prior to the close of the polls have been canvassed. The county
22 board of elections shall not record or publish any votes
23 reflected on the ballots prior to the close of the polls. The
24 canvass process shall continue through the eighth day following
25 the election for valid military-overseas ballots timely received
26 under 25 Pa.C.S. § 3511 (relating to receipt of voted ballot). A
27 county board of elections shall provide at least forty-eight
28 hours' notice of a canvass meeting by publicly posting a notice
29 on its publicly accessible Internet website. One authorized
30 representative of each candidate in an election, the county

1 chairperson of each political party and one representative from
2 each political party shall be permitted to remain in the room in
3 which the absentee ballots and mail-in ballots are canvassed.
4 The proceedings of the canvassing shall be recorded and made
5 available upon request.

6 * * *

7 Section 8. Section 1302-D(f) of the act, amended March 27,
8 2020 (P.L.41, No.12), is amended and subsection (g) is amended
9 by adding a paragraph to read:

10 Section 1302-D. Applications for official mail-in ballots.

11 * * *

12 (f) Form.--The following shall apply:

13 (1) Application for an official mail-in ballot shall be
14 on physical and electronic forms prescribed by the Secretary
15 of the Commonwealth.

16 (2) The application shall state that a voter who applies
17 for a mail-in ballot under section 1301-D shall not be
18 eligible to vote at a polling place on election day [unless
19 the elector brings the elector's mail-in ballot to the
20 elector's polling place, remits the ballot and the envelope
21 containing the declaration of the elector to the judge of
22 elections to be spoiled and signs a statement subject to the
23 penalties under 18 Pa.C.S. § 4904 (relating to unsworn
24 falsification to authorities) to the same effect.] except by
25 provisional ballot. The application shall also state that an
26 elector may deliver a mail-in ballot and the envelope
27 containing the declaration of the elector to the judge of
28 elections of the elector's election district at the elector's
29 polling place during the hours that the polling place is open
30 on election day.

1 (3) The physical application forms shall be made freely
2 available to the public at county board of elections,
3 municipal buildings and at other locations designated by the
4 Secretary of the Commonwealth.

5 (4) The electronic application forms shall be made
6 freely available to the public through publicly accessible
7 means.

8 (5) No written application or personal request shall be
9 necessary to receive or access the application forms.

10 (6) Copies and records of all completed physical and
11 electronic applications for official mail-in ballots shall be
12 retained by the county board of elections.

13 (g) Permanent mail-in voting list.--

14 * * *

15 (1.1) A county board of elections shall remove a person
16 from the permanent mail-in ballot list if the elector does
17 any of the following:

18 (i) The person loses eligibility to vote.

19 (ii) The elector votes in person at the elector's
20 polling place.

21 (iii) The elector requests removal from the
22 permanent mail-in ballot list.

23 * * *

24 Section 9. Section 1302.1-D(a) of the act, added October 31,
25 2019 (P.L.552, No.77), is amended to read:

26 Section 1302.1-D. Date of application for mail-in ballot.

27 (a) General rule.--Applications for mail-in ballots shall be
28 received in the office of the county board of elections not
29 earlier than 50 days before the primary or election, except that
30 if a county board of elections determines that it would be

1 appropriate to the county board of elections' operational needs,
2 any applications for mail-in ballots received more than 50 days
3 before the primary or election may be processed before that
4 time. Applications for mail-in ballots shall be processed if
5 received not later than five o'clock P.M. of the [first Tuesday]
6 fifteenth day prior to the day of any primary or election.

7 * * *

8 Section 10. Sections 1303-D(e) and 1306-D(a) and (b)(3) of
9 the act, amended March 27, 2020 (P.L.41, No.12), are amended to
10 read:

11 Section 1303-D. Official mail-in elector ballots.

12 * * *

13 (e) Notice.--The official mail-in voter ballot shall state
14 that a voter who receives a mail-in ballot under section 1301-D
15 and whose voted mail-in ballot is not timely received by the
16 commission or voted ballot and the envelope containing the
17 declaration of the elector is timely received by the judge of
18 elections of the elector's election district at the elector's
19 polling place on election day may only vote on election day by
20 provisional ballot [unless the elector brings the elector's
21 mail-in ballot to the elector's polling place, remits the ballot
22 and the envelope containing the declaration of the elector to
23 the judge of elections to be spoiled and signs a statement
24 subject to the penalties of 18 Pa.C.S. § 4904 (relating to
25 unsworn falsification to authorities) to the same effect].

26 Section 1306-D. Voting by mail-in electors.

27 (a) General rule.--At any time after receiving an official
28 mail-in ballot, but on or before eight o'clock P.M. the day of
29 the primary or election, the mail-in elector shall, in secret,
30 proceed to mark the ballot only in black lead pencil, indelible

1 pencil or blue, black or blue-black ink, in fountain pen or ball
2 point pen, and then fold the ballot, enclose and securely seal
3 the same in the envelope on which is printed, stamped or
4 endorsed "Official Election Ballot." This envelope shall then be
5 placed in the second one, on which is printed the form of
6 declaration of the elector, and the address of the elector's
7 county board of election and the local election district of the
8 elector. The elector shall then fill out, date and sign the
9 declaration printed on such envelope. Such envelope shall then
10 be securely sealed and the elector shall send same by mail,
11 postage prepaid, except where franked, or deliver it in person
12 to said county board of election or to the judge of elections of
13 the elector's election district at the elector's polling place.

14 * * *

15 (b) Eligibility.--

16 * * *

17 (3) Notwithstanding paragraph (2), an elector who
18 requests a mail-in ballot and who is not shown on the
19 district register as having voted the ballot may [vote at the
20 polling place if the elector remits the ballot and the
21 envelope containing the declaration of the elector to the
22 judge of elections to be spoiled and the elector signs a
23 statement subject to the penalties of 18 Pa.C.S. § 4904
24 (relating to unsworn falsification to authorities) which
25 shall be in substantially the following form:

26 I hereby declare that I am a qualified registered elector
27 who has obtained an absentee ballot or mail-in ballot. I
28 further declare that I have not cast my absentee ballot or
29 mail-in ballot, and that instead I remitted my absentee
30 ballot or mail-in ballot to the judge of elections at my

1 polling place to be spoiled and therefore request that my
2 absentee ballot or mail-in ballot be voided.

3 (Date)

4 (Signature of Elector).....(Address of Elector)

5 (Local Judge of Elections)] deliver the completed mail-in
6 ballot and the envelope containing the declaration of the
7 elector to the judge of elections of the elector's election
8 district at the elector's polling place.

9 * * *

10 Section 11. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under
12 paragraph (2) is necessary for the addition of section
13 1231.1.

14 (2) 25 Pa.C.S § 1503 is repealed.

15 Section 12. This act shall take effect in 30 days.