

JOINT STATE GOVERNMENT COMMISSION

General Assembly of the Commonwealth of Pennsylvania

ELECTION LAW IN PENNSYLVANIA

Second Annual

*REPORT OF THE ELECTION LAW ADVISORY BOARD
for the year ending June 30, 2022*

June 2022



*Serving the General Assembly of the
Commonwealth of Pennsylvania Since 1937*

REPORT

Election Law in Pennsylvania

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The Joint State Government Commission was created in 1937 as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.¹

A fourteen-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission. The seven Executive Committee members from the House of Representatives are the Speaker, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. The seven Executive Committee members from the Senate are the President Pro Tempore, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. By statute, the Executive Committee selects a chairman of the Commission from among the members of the General Assembly. Historically, the Executive Committee has also selected a Vice-Chair or Treasurer, or both, for the Commission.

The studies conducted by the Commission are authorized by statute or by a simple or joint resolution. In general, the Commission has the power to conduct investigations, study issues, and gather information as directed by the General Assembly. The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff.

A Commission study may involve the appointment of a legislative task force, composed of a specified number of legislators from the House of Representatives or the Senate, or both, as set forth in the enabling statute or resolution. In addition to following the progress of a particular study, the principal role of a task force is to determine whether to authorize the publication of any report resulting from the study and the introduction of any proposed legislation contained in the report. However, task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.

Some studies involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. When a study involves an advisory committee, the Commission seeks consensus among the members.² Although an advisory committee member may represent a particular department, agency, association, or group, such representation does not necessarily reflect the endorsement of the department, agency, association, or group of all the findings and recommendations contained in a study report.

¹ Act of July 1, 1937 (P.L.2460, No.459); 46 P.S. §§ 65–69.

² Consensus does not necessarily reflect unanimity among the advisory committee members on each individual policy or legislative recommendation. At a minimum, it reflects the views of a substantial majority of the advisory committee, gained after lengthy review and discussion.

Over the years, nearly one thousand individuals from across the Commonwealth have served as members of the Commission's numerous advisory committees or have assisted the Commission with its studies. Members of advisory committees bring a wide range of knowledge and experience to deliberations involving a particular study. Individuals from countless backgrounds have contributed to the work of the Commission, such as attorneys, judges, professors and other educators, state and local officials, physicians and other health care professionals, business and community leaders, service providers, administrators and other professionals, law enforcement personnel, and concerned citizens. In addition, members of advisory committees donate their time to serve the public good; they are not compensated for their service as members. Consequently, the Commonwealth receives the financial benefit of such volunteerism, along with their shared expertise in developing statutory language and public policy recommendations to improve the law in Pennsylvania.

The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly. Certain studies have specific timelines for the publication of a report, as in the case of a discrete or timely topic; other studies, given their complex or considerable nature, are ongoing and involve the publication of periodic reports. Completion of a study, or a particular aspect of an ongoing study, generally results in the publication of a report setting forth background material, policy recommendations, and proposed legislation. However, the release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair or Vice-Chair of the Commission, of all the findings, recommendations, or conclusions contained in the report. A report containing proposed legislation may also contain official comments, which may be used to construe or apply its provisions.³

Since its inception, the Commission has published over 420 reports on a sweeping range of topics, including administrative law and procedure; agriculture; athletics and sports; banks and banking; commerce and trade; the commercial code; crimes and offenses; decedents, estates, and fiduciaries; detectives and private police; domestic relations; education; elections; eminent domain; environmental resources; escheats; fish; forests, waters, and state parks; game; health and safety; historical sites and museums; insolvency and assignments; insurance; the judiciary and judicial procedure; labor; law and justice; the legislature; liquor; mechanics' liens; mental health; military affairs; mines and mining; municipalities; prisons and parole; procurement; state-licensed professions and occupations; public utilities; public welfare; real and personal property; state government; taxation and fiscal affairs; transportation; vehicles; and workers' compensation.

Following the completion of a report, subsequent action on the part of the Commission may be required, and, as necessary, the Commission will draft legislation and statutory amendments, update research, track legislation through the legislative process, attend hearings, and answer questions from legislators, legislative staff, interest groups, and constituents.

³ 1 Pa.C.S. § 1939.

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To members of the General Assembly:

We are pleased to release Election Law in Pennsylvania, the second annual report of the Election Law Advisory Board established by Act 12 of 2020. This report represents the past year's work of the Advisory Board, which was created to study the election law and identify statutory language to repeal or modify, to collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues, to study the development of election technology, and to evaluate and make recommendations on improving and implementing best practices to ensure the integrity and efficiency of the electoral process in this Commonwealth.

This second report focuses on the maintenance of voter lists, registration of formerly incarcerated individuals, the training of election officials and poll workers, voter ID, and pre-canvassing. Commission staff has kept a close eye on legislative developments, court decisions, and other states' initiatives; these matters are discussed in the report.

While the recommendations in this report are the consensus of the members of the Advisory Board, it should not be assumed by the reader that agreement was unanimous. Some provisions were the subject of much debate and concerns are noted in context.

The full report is available at <http://jsg.legis.state.pa.us>.

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

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INTRODUCTION

The Constitution of the Commonwealth of Pennsylvania Article I, § 5. Elections.

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

The fundamental precept underlying Pennsylvania’s election laws is the Constitutional guarantee of free and equal elections. Pennsylvania’s laws intended to protect that constitutional right can be found in the act of June 3, 1937 (P.L. 1333, No.320), known as the Pennsylvania Election Code (Election Code) and Title 25 of the Pennsylvania Consolidated Statutes, added by the act of January 31, 2002 (P.L. 18, No. 3) (Title 25). Read together, these two statutes form Pennsylvania’s election law.⁴ Additionally, Article VII of the Pennsylvania Constitution provides further details relating to voting rights and procedures.

In 2019, revisions were made to the Election Code, most significant of which for this study are the elimination of straight ticket voting, the addition of mail-in voting, and the replacement of, and funding for, voting machines.⁵ These amendments were specifically intended to create a fairer, more free and equal election process. New voting machines allow for the use of paper ballots so a voter can see his or her completed ballot and verify its accuracy before casting their votes. Elimination of straight ticket voting focused voters’ attention on the candidate, rather than the candidate’s party. Each office and its candidates must be considered separately, which allows Independents and third-party candidates a greater ability to compete against the two major parties, prevents weaker candidates from being elected simply because of their party affiliation, and encourages voters review the entire ballot, which may increase voting on ballot initiatives, constitutional amendments and referenda. Mail-in balloting similarly achieves the goals of a more deliberative voting process, as the voter using a mail-in ballot has ample time to research candidates, review the entire ballot, and vote from a more informed stance. Additionally, persons with transportation issues, including the elderly and persons with physical disabilities, and persons

⁴ Pennsylvania does not have a complete formal statutory code. Laws are found in two places – the Pamphlet Laws and the Consolidated Statutes. A commercial vendor, Purdon’s, has created a compilation with titles identified by topics which can aid the legal practitioner in locating specific laws, but they do not carry the weight of legal citations. If challenged in court and there is a conflict between Purdon’s and the Pamphlet Law or Consolidated Statutes, the Pamphlet Laws or Consolidated Statutes will triumph. In 1972, Pennsylvania began a consolidation process in the which the Pamphlet Laws, which address single topics only and are organized chronologically, are reorganized and codified by topic in the Consolidated Statutes. The process is on-going and more Pamphlet Laws are consolidated each year, and many new enactments are added directly to the Consolidated Statutes at the time of enactment.

⁵ Act of October 31, 2019 (P.L. 552, No. 77), amending the Election Code (Act 77).

whose hours of employment and family responsibilities prevent them from reaching their polling place in the allotted hours for voting can vote from home on a schedule that is convenient to them.⁶

Amendments in 2020 were enacted to provide for temporary emergency general primary election procedures in response to the COVID-19 pandemic, additional revisions to the mail-in voting provisions, and creation of the Election Law Advisory Board (ELAB),⁷ a permanent body within the Joint State Government Commission and directed to:

- Study the election law and identify statutory language to repeal, modify or update.
- Collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues.
- Study the development of new election technology and voting machines.
- Evaluate and make recommendations on:
 - improving the electoral process in this Commonwealth by amending the election law or through regulations promulgated by the Department of State; and
 - implementing best practices identified to ensure the integrity and efficiency of the electoral process in this Commonwealth.

By the end of each fiscal year, extensive and detailed findings are to be published on the Joint State Government Commission's publicly accessible Internet website and made available in electronic format to the Office of the Governor and members of the General Assembly.⁸

Membership of the board consists of House and Senate leadership and the Secretary of the Commonwealth or their designees, and 18 individuals appointed by the Governor and confirmed by the Senate, one from each Congressional district in Pennsylvania. The gubernatorial appointees are to include members who represent the following groups: those advocating for individuals with disabilities, those advocating for voting rights, and those representing county commissioners or county election officials. No more than half of the appointees may be registered with the same political party.⁹

The presidential election in November 2020 triggered a number of challenges to the 2019 and 2020 amendments, in particular relating to the interpretation and implementation of the provisions governing mail-in ballots. The COVID-19 pandemic and the public health restrictions developed to attempt to contain the spread of the virus, together with individuals' reluctance to gather publicly and risk exposure to a novel disease whose potency and lethality were evolving

⁶ Floor debate on Senate Bill 421 (2019), which became Act 77: *see* Senate Legislative Journal June 25, 2019, pp. 721-722; House Legislative Journal October 28, 2019, pp. 1689-1713; House Legislative Journal October 29, 2019, pp. 1738-1741; and Senate Legislative Journal, October 29, 2019, pp. 999-1003.

⁷ Act of March 27, 2020 (P.L. 41, No. 12), amending the 1937 Election Code (Act 12).

⁸ § 1302-E(c) of Act 12.

⁹ § 1302-E(b) of Act 12.

and being revealed incrementally, resulted in a demand for mail-in voting that was unanticipated by the drafters of the amendments and the county officials charged with implementing them. Additionally, the primary election of 2020 was the first election held using the new electronic voting systems required under the Commonwealth's settlement in a recount lawsuit stemming from the 2016 presidential election. Concerns over the age and vulnerability to hacking as well as an inability to produce paper ballots for recount and audit purposes contributed to this settlement decision.¹⁰ Continuing problems within the United States Postal Service exacerbated an already challenging surge in mail-in voting. This confluence of major changes and unanticipated delays imposed strains on the election system in Pennsylvania and identified possible shortcomings in the mail-in ballot amendments.

One of the first acts of the Board following its organizational meeting in January 2021 was to do an internal survey of which issues were priorities among the membership. From that list, five topic areas were designated. They are obtaining mail-in ballots, processing mail-in ballots, election officials and workers, voter registration, and in-person voting. Five workgroups were then assembled to address each umbrella topic. The workgroups reviewed research on approaches to the issues, identifying potential solutions, and the pros and cons of each. The full board has reviewed this research and decided on recommendations in several of these topic areas, which are included in this report. The full Board met via Internet on August 12, 2021, March 25, 2022, and May 26, 2022. Additionally, workgroups met via Zoom on October 14, 2021, November 16, 2021, December 9, 2021, December 10, 2021, December 20, 2021, and December 30, 2021.

The primary focus of the Board in its first two years of existence has been to propose recommendations and legislation to improve the electoral process and to identify best practices geared toward ensuring the integrity and efficiency of the electoral process (directive number four), as these matters appear most urgent.

The most pressing matter, in the opinion of the board, has been procedures revolving around mail-in ballots. In particular, the need for more time for county election officials to pre-canvas mail-in and absentee ballots led the Board to propose an amendment in its 2021 annual report to allow counties to begin processing mail-in and absentee ballots up to 14 days prior to Election Day. The exact amount of time would be dependent upon the individual county's needs, within those parameters. This issue has been raised repeatedly by county commissioners and county election officials. At least 16 pieces of legislation have been introduced during this General Assembly to allow for pre-canvassing from times ranging from 3 to 21 days. Of those bills, House Bill 1704, introduced on June 24, 2021 by Representatives Davidson and Sanchez, appears to be based exclusively on the Board's recommendation. While the future of mail-in ballots is still being litigated, the current law authorizing them is still in effect and the need for expanded pre-canvassing time will continue unless and until mail-in ballots are found unconstitutional or are repealed. Much discussion has ensued, and some potential recommendations on mail-in ballots and drop boxes have been considered (and which will be discussed later in the report) but until resolution of the litigation challenging the constitutionality of mail-in ballots occurs, the Board is holding off on formalizing recommendations.

¹⁰ Jill Stein et al., v Pedro A. Cortes, Secretary of the Commonwealth et al., No. 16-CV-6287, E.D. Pa., (November 28, 2018).

Additionally, as staff researched the statutory language affecting these topics, areas of the statute where language should be repealed, modified or updated were identified, and modifications suggested to make the law current and replace the circuitous statutory writing style in vogue in the 1930s with simpler, more plain-meaning-based language. Further, because Pennsylvania's election law is found in two places, the 1937 Pamphlet Laws, and Title 25 of the Pennsylvania Consolidated Statutes, there are areas where the two statutes conflict and need to be reconciled. These efforts are taking place alongside the review of some of the more pressing issues, in accordance with directive number one.

The Board's composition ensures that directive number two is accomplished.

The Board has not yet reviewed matters related to directive number three, election technology and voting machines, other than to closely follow the Statewide Uniform Registry of Electors (SURE) System Modernization Project of the Department of State. The Board is taking a "wait and see" approach to these efforts and will be prepared to comment further after implementation has proceeded to the point that meaningful feedback is available.

The Board has been mindful of three guiding principles throughout this process: (1) the Commonwealth is diverse, and absolute uniformity across all counties would be difficult to achieve and maintain; (2) that any procedural changes would require funding; and (3) that county election officials need significant lead time to implement any changes made.

The Board has not studied questions of voter confidence, election audits, election fraud and misconduct, and assisted registration and voting, but preliminary research into these areas by Joint State Government Commission staff is included in the final chapter of this report.

While the recommendations in this report are the consensus of the members of the ELAB, it should not be assumed by the reader that agreement was unanimous. Some provisions were the subject of much debate and concerns are noted in context.

RECOMMENDATIONS

While the recommendations in this report are the consensus of the members of the ELAB, it should not be assumed by the reader that agreement was unanimous. Some provisions were the subject of much debate and concerns are noted in context. Any proposed legislation in this chapter follows the Legislative Reference Bureau's drafting convention of using brackets to show deleted materials and underscoring all new language.

RECOMMENDATION #1: Voter List Maintenance

Pennsylvania should statutorily permit the Department of State to access national databases to ensure that voter registration lists are up to date, particularly with respect to deceased voters.

AN ACT

Amending Title 25 (Elections) of the Pennsylvania Consolidated Statutes, in changes in records, further providing for Department of State participation in national voter registration databases and for information regarding death of a registered elector.

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

Section 1. Section 1222 of Title 25 of the Pennsylvania Consolidated Statutes is amended by adding a new subsection (f) to read:

§ 1222. SURE system.

* * *

(f) Use of national databases.—The department may participate in national databases that contain official data on voter registration information in order to verify and update voter registration information in the SURE system. These databases may include the Electronic Registration Information Center (ERIC) or other similar nationwide voter registration databases.

Section 2. Section 1505 of Title 25 of the Pennsylvania Consolidated Statutes is amended by adding a new subsection (a.1) to read:

§ 1505. Death of registrant.

* * *

(a.1) Department of State.—The Department of State may access the Electronic Registration Information Center and the United States Social Security Administration’s Master Death File to determine if a registered elector has been reported deceased, and if the records indicated that the person is deceased, remove the name and address of the deceased elector from the SURE system.

* * *

Section 2. This act shall take effect in 60 days.

RECOMMENDATION #2: Voter Registration of Formerly Incarcerated Persons

Pennsylvania’s voter registration provisions for formerly incarcerated individuals should be updated to reflect judicially mandated standards. This proposal addresses formerly incarcerated persons who apply to register to vote for the first time following their release. It does not address individuals who were registered to vote prior to their incarceration, and who have had their voting rights suspended during the duration of the incarceration.

Amending Title 25 (Elections) of the Pennsylvania Consolidated Statutes, in changes in records, further providing for qualification of convicted felons to register to vote.

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

Section 1. Sections 1301(a), 1325(b)(4) and 1327(a)(4) of Title 25 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1301. Qualifications to register.

(a) Eligibility.—An individual who will be at least 18 years of age on the day of the next election, who has been a citizen of the United States for at least one month prior to the next election and who has resided in this Commonwealth and the election district where the individual offers to vote for at least 30 days prior to the next ensuing election [and has not been confined in a penal institution for a conviction of a felony within the last five years] shall be eligible to register as

provided in this chapter. An individual who has been convicted of a felony shall not be eligible to register to vote if the individual is:

(1) Currently confined in a penal institution for conviction of a felony if the individual will not be released from confinement before the next election; or

(2) Currently residing in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the date of the next election.

* * *

§ 1325. Government agencies.

(b) Forms.—An agency designated in subsection (a) shall provide a form for office visits or, if the agency provides services to persons with disabilities, for home visits which contains all of the following:

(4) The statement "In order to be qualified to register to vote, you must be at least 18 years of age on the day of the next election, you must have been a citizen of the United States for at least one month prior to the next election and have resided in Pennsylvania and the election district where you plan to vote for at least 30 days prior to the next election [and you must not have been confined in a penal institution for a conviction of a felony within the last five years]. You are not qualified to vote if you are currently confined in a penal institution for conviction of a felony and you will not be released from confinement before the next election or you are in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

* * *

§ 1327. Preparation and distribution of applications.

(a) Form.—

* * *

(4) A voter registration application shall be printed on stock of good quality and shall be of suitable uniform size. Nothing in this part shall prohibit the design and use of an electronic voter registration application which includes the applicant's digitized or electronic signature. The registration application shall contain the following information; however, the information may be provided on a separate form for voter registration made under section 1323 or 1325:

* * *

(iii) Notice that the applicant must be a citizen of the United States for at least one month prior to the next election and a resident of this Commonwealth and the election district for at least 30 days and must be at least 18 years of age by the day of the next ensuing election [and has not been confined in a penal institution for a conviction of a felony within the last five years].

(iv) Notice that the applicant is not qualified to vote because the applicant is currently confined in a penal institution for conviction of a felony and will not be released from confinement before the next election or is in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

The notice required in this subparagraph shall be in print identical to the declaration under subsection (b).

(b) Registration declaration.—

(1) The official voter registration application shall contain a registration declaration. On the declaration, the applicant shall state all of the following:

(iv) The applicant [has not been confined in a penal institution for a conviction of a felony within the last five years] is not qualified to vote because the applicant is currently confined in a penal institution for conviction of a felony and will not be released from confinement before the next election or is in a community confinement facility or other alternative correctional facility for conviction of a felony and will not be released before the day of the next election.

RECOMMENDATION #3: Voter Identification

Many members of the Advisory Board believe that expanding the current voter identification requirements in the Election Code to require identification be presented by voters at every election is a reasonable action to take to provide citizen confidence in election integrity. The concern of some members is that the list of acceptable proof of identification be comprehensive enough to ensure that persons are not disenfranchised because of their inability to produce a limited number of forms of identification. Additionally, the *Applewhite* decision in 2014 declared parts of the voter identification provisions of the Election Code unconstitutional, yet those provisions remain in the statute. Staff has advised that such language be removed from the statute to prevent confusion. This includes language providing for a PennDOT issued photo identification card to be used solely for voter identification purposes, the requirement of expiration dates on identification documents, and the requirement of presentation of additional identification to the county board of elections within six days of the election in order for provisional ballots to be counted. The Advisory Committee will continue to study the proposal to expand voter identification in future meetings but has authorized the following proposed legislation to remove language found unconstitutional in the *Applewhite* decision.

The amendments set forth below to accomplish this repeal all involve deletion of statutory language, normally marked by using brackets to enclose the material being repealed. In this particular set of amendments, the bracketing is difficult to recognize on its own. Accordingly, staff has highlighted the text to be repealed in gray, to make the proposal more readable.

AN ACT

Amending the act of June 3, 1937 (P.L.1333, No.320), entitled "An act concerning elections, including general, municipal, special and primary elections, the nomination of candidates, primary and election expenses and election contests; creating and defining membership of county boards of elections; imposing duties upon the Secretary of the Commonwealth, courts, county boards of elections, county commissioners; imposing penalties for violation of the act, and codifying, revising and consolidating the laws relating thereto; and repealing certain acts and parts of acts relating to elections," providing for voter identification at primaries and elections.

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

Section 1. Sections 102 act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended to read:

§ 102. Definitions.

(z.5) The words "proof of identification" shall mean:

(1) In the case of an elector who has a religious objection to being photographed, a valid-without-photo driver's license or a valid-without-photo identification card issued by the Department of Transportation.

(2) For an elector who appears to vote under section 1210, a document that:

(i) shows the name of the individual to whom the document was issued and the name substantially conforms to the name of the individual as it appears in the district register;

(ii) shows a photograph of the individual to whom the document was issued;

[(iii) includes an expiration date and is not expired, except:

(A) for a document issued by the Department of Transportation which is not more than twelve (12) months past the expiration date; or

(B) in the case of a document from an agency of the Armed forces of the United States or their reserve components, including the Pennsylvania National Guard, establishing that the elector is a current member of or a veteran of the United States

Armed Forces or National Guard which does not designate a specific date on which the document expires, but includes a designation that the expiration date is indefinite;] and

(iv) was issued by one of the following:

- (A) The United States Government.
- (B) The Commonwealth of Pennsylvania.
- (C) A municipality of this Commonwealth to an employee of that municipality.
- (D) An accredited Pennsylvania public or private institution of higher learning.
- (E) A Pennsylvania care facility.

(3) For a qualified absentee elector under section 1301 or a qualified mail-in elector under section 1301-D:

(i) in the case of an elector who has been issued a current and valid driver's license, the elector's driver's license number;

(ii) in the case of an elector who has not been issued a current and valid driver's license, the last four digits of the elector's Social Security number;

(iii) in the case of an elector who has a religious objection to being photographed, a copy of a document that satisfies paragraph (1); or

(iv) in the case of an elector who has not been issued a current and valid driver's license or Social Security number, a copy of a document that satisfies paragraph (2).

Section 2. The act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, is amended by adding a new section 102.1 to read:

Section 3. Sections 206 and 1210 of act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, are amended to read:

Section 206. Requirements Relating to Voter Identification.—~~[(a)]~~ The Secretary of the Commonwealth shall prepare and disseminate information to the public regarding the proof of identification requirements established under sections 1210 and 1302.

~~[(b) Notwithstanding the provisions of 75 Pa.C.S. § 1510(b) (relating to issuance and content of driver's license) to the contrary, the Department of Transportation shall issue an identification card described in 75 Pa.C.S. § 1510(b) at no cost to any registered elector who has made application therefor and has included with the completed application a statement signed by the elector declaring under oath or affirmation that the elector does not possess proof of identification as defined in section 102(z.5)(2) and requires proof of identification for voting purposes.~~

~~(c) The Secretary of the Commonwealth shall prepare the form of the statement described in subsection (b) and shall distribute the form to the counties and the Department of Transportation. The Secretary of the Commonwealth, the Secretary of Transportation and the county boards of election shall disseminate information to the public regarding the availability of identification cards under subsection (b).]~~

Section 1210. Manner of Applying to Vote; Persons Entitled to Vote; Voter's Certificates; Entries to Be Made in District Register; Numbered Lists of Voters; Challenges.—

(a) At every primary and election each elector who appears to vote and who desires to vote shall first present to an election officer proof of identification. The election officer shall examine the proof of identification presented by the elector and sign an affidavit stating that this has been done.

(a.2) If any of the following apply, the elector shall be permitted to cast a provisional ballot in accordance with subsection (a.4):

(1) The elector is unable to produce proof of identification ~~[:~~

(i) on the grounds that the elector is indigent and unable to obtain proof of identification without the payment of a fee; or

(ii) on any other grounds].

(2) The elector's proof of identification is challenged by the judge of election.

(a.4)(5)

(ii) A provisional ballot shall not be counted if:

(A) either the provisional ballot envelope under clause (3) or the affidavit under clause (2) is not signed by the individual;

(B) the signature required under clause (3) and the signature required under clause (2) are either not genuine or are not executed by the same individual;

(C) a provisional ballot envelope does not contain a secrecy envelope; or

[(D) in the case of a provisional ballot that was cast under subsection (a.2)(1)(i), within six calendar days following the election the elector fails to appear before the county board of elections to execute an affirmation or the county board of elections does not receive an electronic, facsimile or paper copy of an affirmation affirming, under penalty of perjury, that the elector is the same individual who personally appeared before the district election board on the day of the election and cast a provisional ballot and that the elector is indigent and unable to obtain proof of identification without the payment of a fee;

(E) in the case of a provisional ballot that was cast under subsection (a.2)(1)(ii), within six calendar days following the election, the elector fails to appear before the county board of elections to present proof of identification and execute an affirmation or the county board of

elections does not receive an electronic, facsimile or paper copy of the proof of identification and an affirmation affirming, under penalty of perjury, that the elector is the same individual who personally appeared before the district election board on the day of the election and cast a provisional ballot; or]

(F) the elector's absentee ballot or mail-in ballot is timely received by a county board of elections.

RECOMMENDATION #4: Election Official and Poll Worker Training

The consensus of the ELAB is that while a “one-size-fits-all” approach to election worker training is burdensome to a Commonwealth consisting of 67 diverse counties, some degree of uniformity with respect to certain topic areas would be useful. In particular, the areas of processing nomination petitions and campaign finance disclosures, developing timetables for pre-Election Day activities, determining the number of employees needed to canvass and pre-canvass ballots, and the number of paper ballots to be provided seem ripe for some general standards. The members of the ELAB believe that the development of guidelines may best be accomplished by the County Commissioners Association of Pennsylvania, the Association of Eastern Pennsylvania County Election Personnel and the Association of Western Pennsylvania County Election Personnel, working in conjunction with the Department of State, as these types of details are not necessarily appropriate for statutory enactment.

RECOMMENDATION #5: Pre-Canvassing

This recommendation was made in the Board’s June 2021 report and it is reiterated here.

AN ACT

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

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

Section 1. Section 102 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, amended March 27, 2020 (P.L.41, No.12), is amended to read:

Section 102. Definitions.—

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

* * *

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

Section 2. Section 1308 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, amended March 27, 2020 (P.L.41, No.12), is amended to read:

Section 1308. [Canvassing] Processing of Official Absentee Ballots and Mail-in Ballots. (a)

The county boards of election, upon receipt of official absentee ballots in sealed official absentee ballot envelopes as provided under this article and mail-in ballots as in sealed official mail-in ballot envelopes as provided under Article XIII-D, shall safely keep the ballots in sealed or locked

containers until they are to be [canvassed] processed by the county board of elections. An absentee ballot, whether issued to a civilian, military or other voter during the regular or emergency application period, shall be [canvassed] processed in accordance with subsection (g). A mail-in ballot shall be [canvassed] processed in accordance with subsection (g).

* * *

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

* * *

(g) (1)

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

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

(1.1) The county board of elections [shall meet no earlier than seven o'clock A.M. on election day to pre-canvass all ballots received prior to the meeting.] may begin processing official absentee and mail-in ballots no earlier than seven o'clock A.M. on the 14th day immediately preceding the election, during the hours of seven o'clock A.M. to seven o'clock P.M. each day, including holidays and weekends, if the number of absentee and mail-in ballots sent by the county to registered voters indicates that extra time will be needed to ensure that all such ballots can be processed, counted and tallied prior to eleven o'clock P.M. on the day of the election. A county board of elections shall provide at least forty-eight hours' notice of [a pre-canvass meeting] the first day that pre-election day ballot processing will begin by publicly posting a notice [of a pre-canvass meeting] of the dates and times processing will occur on its publicly accessible Internet website. One authorized representative of each candidate in an election and one representative from each political party shall be permitted to remain in the room in which the absentee ballots and mail-in ballots are [pre-canvassed] processed. No person observing, attending or participating in [a pre-canvass meeting] any ballot processing activities may disclose the results of any portion of any [pre-canvass meeting] ballot processing prior to the close of the polls on election day. A person who makes an unauthorized disclosure under this paragraph shall be guilty of a misdemeanor of the first degree.

(2) The county board of elections shall meet no earlier than the close of polls on the day of the election and no later than the third day following the election to begin canvassing absentee ballots and mail-in ballots not [included in the pre-canvass meeting] processed under paragraph (1.1). The meeting under this paragraph shall continue until all absentee ballots and mail-in ballots received prior to the close of the polls have been canvassed. The county board

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

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

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

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

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

(iii)

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

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

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

* * *

VOTER REGISTRATION

The ELAB found that access to national voter registration databases is limited, and proposed Recommendation #1 to expand access to those databases, especially regarding information identifying deceased voters. Concerns were raised about effectiveness of transfer of voter registrations from PennDOT to the Department of State, but the ELAB is holding any possible recommendations in that regard until the SURE modernization project is complete, which is anticipated to address these connectivity issues. Proposals to provide for automatic registration and same day registration were not advanced, in large part because Pennsylvania does not have the electronic and internet infrastructure in place currently to implement these proposals in a secure manner. Pre-registration of persons under age 18 were also not advanced, as set forth below. Recommendation #2 addresses voting registration of previously incarcerated persons.

Methods of Registration

Under current Pennsylvania law, a person can register to vote several ways:

- Paper applications in-person or mailed
- Direct online registration via the SURE Public Portal on the DOS website or at DOS and county election offices
- Third party registration (WebAPI) – allows individuals and organizations to submit voter registration applications gathered as part of voter registration drives in electronic form (does not have direct access to SURE)
- PennDOT “Motor Voter” as part of driver’s license renewal or application
- Via federal benefits offices under the National Voter Registration Act (NVRA) and other government organizations:
 - Women, Infants’ and Children (WIC) Clinics;
 - agencies serving people with disabilities and county mental health/intellectual disability offices (Blindness and Visual Service district offices and contractors, Centers for Independent Living, State Mental Health Centers, State Mental Health Hospitals, Office of Vocational Rehabilitation district officers);
 - county assistance offices;
 - clerk of orphan’s courts;
 - children and youth agencies;
 - children and early learning organizations;

- Area Agencies on Aging;
- health care organizations;
- Student Disability Service Offices at PASSHE universities;
- Bureau of Special Education;
- para-transit providers;
- Armed Services Recruitment Centers

There is confusion over how PennDOT's "motor voter" process works. Additionally, and not infrequently, changes of addresses of registered voters do not make it through the process to the county elections office, or they are delayed.

The Election Code authorizes application for voter registration current with a driver's license application. During this process, all necessary proof of eligibility is verified, and the voter's signature is obtained.¹¹ Thus, a person can register to vote at the same time they obtain their *initial* driver's license. If a person applies in person to renew a driver's license, and if they bring the appropriate eligibility documents to the PennDOT service center, they can register to vote at that time. Voter registration through PennDOT can only be accomplished in person; if an individual wishes to register to vote online, they must do it through the DOS voter registration page. A person who is not registered to vote who renews their driver's license online will not be able to register to vote via that route, as the appropriate documentation and signature requirements for voter registration will not be met.

A potential means of addressing this confusion would be to require PennDOT to clearly state on its internet website that voter registration through PennDOT can only be done in person.

The SURE modernization process, outline below, hopes to address PennDOT processing delays by allowing for real-time connectivity.

Another aspect of the confusion with motor voter is that an online application to change address or name does not allow a first-time voter to register to vote. PennDOT's change of name/address online process is designed to allow PennDOT to notify the county registration commission (usually the county commissioners) of an already registered voter's new address or name only. Also, this is not done in real time, but in batches.

Annually, according to the Department of State, 200,000 to 300,000 individuals who are not already registered to vote complete change of address forms in an attempt to register to vote. Currently, these changes of address for voter registration are denied, and the would-be registrant receives a notice from the county to that effect. Under the SURE modernization plan, these rejection notices would be accompanied by a voter registration form.

¹¹ 25 Pa.C.S. § 1323.

SURE System Modernization

Pennsylvania maintains the SURE system within the Department of State, which is charged with maintaining a single uniform integrated computer system.¹² All county registration commissions must be connected electronically to the SURE system and must maintain their registration records in the system. The SURE system is mandated to do the following:

- 1) Contain a database of all registered electors in the Commonwealth.
- 2) Ensure the integrity and accuracy of all registration records in the system by prohibiting unauthorized entry, modification or deletion of registration records.
- 3) Assign a unique SURE registration number to each individual currently registered in the Commonwealth.
- 4) Permit the commissions to add, modify, and delete information in the system as is necessary and appropriate.
- 5) Permit each commission and the department to have instant access to a commission's registration records maintained on the system.
- 6) Be the general register for a commission once the commission is connected to the SURE system.
- 7) Permit each commission and the department to review and search the system and to permit the sending of notices to the appropriate officials regarding death, change of address or other information that could affect the qualifications of an applicant or the registration of a registered elector.
- 8) Provide for the electronic transfer of completed voter registration applications and changes of address.
- 9) Preserve the power of the commissions to make determinations as to the qualifications of applicants.
- 10) Assign a unique SURE registration number to each qualified elector who becomes registered and record the registered elector in the general register of the appropriate commission.
- 11) Permit auditing of each registered elector's registration record from the day of its creation until the day it is canceled.
- 12) Permit the department to implement 25 Pa.C.S. § 1901(b)(1)(i) (relating to removal of electors).

¹² 25 Pa.C.S. §§ 1222 and 1223, added by the act of January 31, 2002 (P.L. 18, No. 3).

- 13) Permit the timely printing and transmission by commissions of district registers and all other information contained in the system as may be necessary for the operation of the polling places on election days.
- 14) Be designed with an emergency recovery system to ensure that registration records are not lost in the case of an emergency, natural disaster or other such event that could cause the system to malfunction.
- 15) Identify the election district to which a qualified elector or registered elector should be assigned.
- 16) Create and produce reports.
- 17) Identify duplicate voter registrations on a countywide and Statewide basis.
- 18) Maintain a record of polling place locations and district election officers.
- 19) Identify registered electors who have been issued absentee ballots for an election in accordance with the Election Code.
- 20) Identify registered electors who vote in an election and the method by which their ballots were cast.
- 21) Print the wallet-sized identification cards required by 25 Pa.C.S. § 1328 (relating to approval of registration applications).

The Pennsylvania Auditor General released a Performance Audit Report of the SURE System in December 2019 that identified several shortcomings in the current system, both from a technology basis and a data collection basis. In 2020, the Department of State began working on a modernization project for the nearly 20-year-old system that will hopefully address many of the concerns.

The SURE modernization project is expected to unfold in three phases. Any rollout dates cited below are tentative and subject to change as implementation needs require. The project involves replacing the current SURE system, a unique program developed in Pennsylvania, to a B Pro, Inc./KnowInk system, that has been modified to meet the needs of Pennsylvania's laws, regulations, and practices. BPro/KnowInk is an elections software services company that has successfully implemented voter registration systems in Arizona, as well as 14 other states. The company has worked with all five of the voting machine companies currently certified for use in Pennsylvania. The request for proposal and final contract for the modernized system can be found on the Department of General Services website.¹³

¹³ Pennsylvania Department of General Services, eMarketplace portal, <http://www.emarketplace.state.pa.us/BidContractDetails.aspx?ContractNo=4400023325>.
NOTE: Some areas have been redacted for security purposes.

Phase I of the project is expected to be phased in beginning in the spring of 2022, with parallel testing occurring during the May 2022 primary and the program in full use by the November election. The first phase is focused on election management, and the goal is to expedite uploading of unofficial precinct returns on election night, which would then be readily available to the public and media. Currently, all 67 counties upload unofficial returns on election night, using two dozen different file formats that require manual mapping of the returns, and two rounds of testing. The new system will be more user-friendly for county election officials and will include automatic mapping.

Phase II of the project is expected to launch after the November 2022 election and will involve updating voter registration activities. The system will be better able to tie voter addresses and registrations to precincts and districts and will aid in providing the more up-to-date voter lists prior to elections. The system comes with a GIS component (Total Address) that will enable the department and the counties to incorporate GIS into the location of voter addresses, polling locations, etc.

Phase III, expected to address campaign financing and lobbying disclosures, is expected to be ready in early 2023.

ELAB will monitor the SURE modernization plan to see if it addresses the concerns that have been raised and to determine if recommendations for legislation should be made to the General Assembly to address any remaining concerns.

Voter List Maintenance

The Help America Vote Act of 2002 (HAVA) required states to develop a computerized, statewide list of voter registrations. It also governs how a voter may be removed from the rolls for failure to vote. The National Voter Registration Act of 1993 (NVRA), which implemented the “motor voter” law also serves as a resource for voter list maintenance. The law established a “floor” for procedures to remove voters from voting rolls for the reasons of felony conviction, adjudication of mental incapacity, or because a voter has moved from one electoral jurisdiction to another.¹⁴ There is no federally mandated national voter registration database to easily verify voters as they move from state to state. The U.S. Postal Service National Change of Address (NCOA) program is an available resource, and use of the program has been mandated under Pennsylvania law since 2002.¹⁵ Approximately 30 other states require the use of NCOA. Pennsylvania has belonged to the Electronic Registration Information Center (ERIC) since 2016, but this is a voluntary membership which could change from gubernatorial administration to gubernatorial administration. ERIC is a non-profit consortium of 31 states and the District of Columbia that report voter registration and driver’s license registrations electronically and can receive reports that show voters who have moved within their state, voters who have moved out of state, voters who have died, duplicate registrations in the same state, and individuals who are

¹⁴ National Conference of State Legislatures, “Voter Registration List Maintenance,” October 7, 2021. <https://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.

¹⁵ Section 1901(b), added by the act of January 31, 2002 (P.L. 18, No. 3).

potentially eligible to vote but are not yet registered. The use of ERIC raises two concerns: (1) its temporary nature, in that any given administration could withdraw from the group and (2) provisions of the Election Code that prevent counties from using ERIC to find deceased voter information.

In Pennsylvania, the decision to belong to ERIC resides in the gubernatorial administration, and while several governors have authorized participation, a new governor could decide not to participate. This practice could continue, or it could be legislatively mandated, as is the case in Illinois, Massachusetts, Wisconsin, Iowa and other states.¹⁶ Louisiana withdrew its membership from ERIC citing concerns about partisan funding sources and data privacy. The Office of Special Counsel for the State of Wisconsin recommended withdrawal by the state from ERIC, based on concerns of costs/benefits and partisanship. No formal action has been taken on that recommendation.¹⁷ In response to the special counsel's report, the Wisconsin Elections Commission refuted many of the complaints identified against ERIC in its April 2022 report to the State Legislature.¹⁸ Nebraska, New Jersey, and Oklahoma passed laws in 2021 authorizing participating in ERIC.¹⁹

One of the criticisms offered by the Auditor General in the 2019 performance audit of the SURE system was that the Department of State did not use all the resources available to it through its ERIC membership, including ERIC's death notices database.²⁰ This aspect of ERIC is currently not accessed because it is not authorized by the Election Code. The statute limits counties to information provided by the Department of Health, published newspaper obituaries, and letters testamentary or administration issued on behalf of the deceased voter's estate.

¹⁶ Saige Draeger, "The What, Why and How of Voter List Maintenance," Statute Legislatures News, National Conference of State Legislatures, March 23, 2022. <https://www.ncsl.org/research/elections-and-campaigns/the-what-why-and-how-of-voter-list-maintenance-magazine2022.aspx>.

Oklahoma authorizes use of multi-state databases as well as ERIC. Alabama has similar legislation that becomes effective in 2025.

¹⁷ Office of the Special Counsel, State of Wisconsin, Second Interim Investigative Report, "On the Apparatus & Procedures of the Wisconsin Elections System," delivered to the Wisconsin State Assembly on March 1, 2022. <https://legis.wisconsin.gov/assembly/22/brandtjen/media/1552/osc-second-interim-report.pdf>

¹⁸ Wisconsin Elections Commission, Wisconsin Elections Commission: Implements Legislative Audit Bureau recommendations," April 4, 2022, <https://www.wispolitics.com/2022/wisconsin-elections-commission-implements-legislative-audit-bureau-recommendations/>.

¹⁹ Draeger, at note 16.

²⁰ Department of the Auditor General, Performance Audit Report – Pennsylvania Department of State, Statewide Uniform Registry of Electors, December 2019, at 58, https://www.paauditor.gov/Media/Default/Reports/Department%20of%20State_SURE%20Audit%20Report%2012-19-19.pdf.

Specifically, 25 Pa.C.S. § 1505 reads:

§1505. Death of registrant.

(a) Department of Health.--A commission shall cancel the registration of a registered elector reported dead by the Department of Health. The Department of Health shall, within 60 days of receiving notice of the death of an individual 18 years of age or older, send the name and address of residence of that individual to a commission in a manner and on a form prescribed by the department. The commission shall promptly update information contained in its registration records.

(b) Other sources.--A commission may also utilize published newspaper obituaries, letters testamentary or letters of administration issued by the office of the registrar of wills to cancel and remove the registration of an elector, provided that such removals are uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965 (Public Law 89-110, 42 U.S.C. § 1973 et seq.). The commission shall promptly update information contained in its registration records.

(c) Corrections.--An individual incorrectly reported deceased by the Department of Health or incorrectly removed by a commission for reason of death may appear in person before a commissioner, registrar or clerk at the office of the commission and prove identity. The commission, upon such proof, shall correct its registration records.

In October 2020, litigation was commenced against the Secretary of the Commonwealth alleging that the Secretary had failed to make reasonable efforts to maintain the list of registered voters, in particular with respect to removal of the names of deceased voters. The settlement agreement between the parties specified that for the period after the May 2021 primary election and prior to the November 2021 general election, the Department of State would use the ERIC database to identify deceased voters. The agreement specified that this was a one-time identification of deceased registrants and would be in addition to, and not a substitute for list maintenance activities that DOS is mandated both federally and under state law.²¹

The Election Code could be amended to make ERIC membership permanent. Additionally, it could be amended to authorize the use of other databases, and to specifically allow use of ERIC's deceased voters lists. Other databases that could be included in such legislation could include the U.S. Social Security Administration's Death Index and the National Association for Public Health Statistics and Information Systems (NAPHSIS), which is a national nonprofit organization representing the state vital records and public health statistics offices in the United States.

²¹ *Public Interest Legal Foundation v. Degraffenreid*, Settlement Agreement and Release, Civil Action No. 1:20-cv-1905, April 1, 2021. <https://cdn.factcheck.org/UploadedFiles/Settlement-Agreement-Executed-by-PILF-00539811xBF28F-Signed.pdf>.

Automatic Voter Registration

Under the National Voting Rights Act, enacted in 1993, states are required to offer the opportunity to register to vote when applying for or renewing their driver's license (motor voter), and at other designated government entities when applying for federally funded benefits. According to the National Conference of State Legislatures, 22 states and the District of Columbia have expanded on this concept to create various forms of automatic registration. Basically, there are two methods: front-end opt out and back-end opt out. In front-end opt out, every customer is offered the option of registering to vote, and the person can register or decline to register at that time. In back-end opt out, the person is automatically registered at the point of service and then receives notification of the registration via a post-transaction mailer. If the person does not actively respond to the mailer to decline registration, they are registered to vote.²²

As discussed earlier, Pennsylvania's motor voter provisions permit registration of first-time voters only if they appear in person, with the required proof of eligibility to vote, to apply for a driver's license or renewal. Online renewals cannot affect a new voter registration. While the opportunity to register is at PennDOT, it is not an automatic transaction.

Proponents of automatic registration argue that it removes barriers from registration and helps with voter registration list maintenance. Opponents argue that in a participatory democracy no citizen should be compelled to register or vote.

Concerns regarding additional opportunities for error also mitigate against automatic registration. It has been suggested that injecting a third party into the registration process (between the voter and the Department of State) provides an opportunity for increased errors. Additionally, concerns have been expressed that automatic registration could result in inclusion in the voter registry before eligibility has been verified, another potential opportunity for unqualified registrants to be entered into the rolls in error.

Automatic registration could occur if all verification was done simultaneously with the registration. This could add an administrative burden to any state agencies that are currently authorized to register voters upon request if they are then required to automatically register voters.

Same Day Registration

Pennsylvania currently does not allow persons to register to vote at their polling place on Election Day. Current law requires a person to register to vote 15 days before Election Day. Currently 22 states permit registration to vote and cast a ballot at the same time. Nineteen of those states permit this to occur on Election Day. North Carolina allows same day registration during the early voting period. Montana is in ongoing litigation regarding this issue, so its permanent status is currently uncertain. States that authorize same day registration require the prospective

²² National Conference of State Legislatures, "Automatic Voter Registration," January 12, 2022, <https://www.ncsl.org/research/elections-and-campaigns/automatic-voter-registration.aspx>.

voter to present proof of residency and voter identification. Some states will require the person to cast a provisional ballot until the registration is fully vetted. Registration must be done in-person. Some states restrict the locations where same-day registration can occur, such as only at voting centers. The use of electronic poll books is essential to connect to statewide voter lists to verify identity and if the voter has already registered and voted.²³

Proponents argue that same day registration could capture new voters who failed to register in advance or who moved to a new election district after the deadline for registration has passed. There is evidence that voter turnout increases an average of five percent. No conclusive evidence has shown that it affects partisan outcomes or are of benefit to particular populations.

Currently, the Commonwealth's election infrastructure is not sufficient to accomplish same day registration statewide. The state has over 9,000 polling places – staffing is currently difficult, additional training would be required of poll workers, and the administrative workload on Election Day would be increased. Electronic poll books would be a necessity, and currently only 12 of Pennsylvania's 67 counties have started to use them. Pilot efforts are occurring in some precincts in some counties, but this is not widespread in 2022. This would require additional purchases of equipment and ensuring that each polling place has adequate connectivity, an issue in some of the more rural areas of the state. Using provisional ballots for same-day registrants adds an additional administrative burden to county election officials as they must be processed separately after the close of polls on Election Day. Completion of the SURE modernization project and further implementation of electronic poll books could help position Pennsylvania to adopt same day registration in the future if it is desired.

Pre-Registration

Some states have enacted legislation that provides for automatic or voluntary pre-registration of youth under the age of 18. Automatic registration is usually tied to application for a learner's permit to drive. Some states provide for voluntary registration of high school students between the ages of 16 and 18. Fifteen states and the District of Columbia permit pre-registration of 16-year-olds. Another four states authorize pre-registration at age 17. Five other states set a specific age between 16 and 18 at which time youth may pre-register to vote. There is some evidence to indicate that preregistration can affect youth voter turnout.²⁴ Currently, Pennsylvania has a limited form of voluntary pre-registration for voters who will be of legal age to vote on Election Day.

The same concerns with automatic registration in general have been raised regarding automatic registration of youth. Additionally, concerns were raised as to expanding the pre-registration age any lower than it currently is. If high school students could register at their home addresses at age 16 or 17, their addresses may change before they are eligible to vote in their first

²³ National Conference of State Legislatures, "Same Day Voter Registration," May 4, 2022, Same Day Voter Registration (ncsl.org).

²⁴ National Conference of State Legislatures, "Preregistration for Young Voters," June 28, 2021, Preregistration for Young Voters (ncsl.org).

election, as many students leave home for school, the military, and to start their own families after graduation. Keeping addresses updated could become an administrative challenge. Because the need to prove identity and residence can be problematic for youth, who may not have a driver's license or proof of residence (such as utility bills in their own names), parental affidavits may be necessary. Additional concerns revolve around when and where pre-registration can occur.

Under current Pennsylvania law, potential voters can register in a variety of locations. Most relevant for this discussion would be the county elections office, PennDOT, and public high schools. Current law already requires schools to make space available for voter registration at dates and times requested by the county election officials.

25 Pa.C.S. § 1322(d) Schools.--The board of public education or the board of school directors shall furnish suitable space in any public school building under its jurisdiction or control and shall cause the space to be open and in proper order for use as a place of registration on each day when the space is desired by the commission for use as a place of registration in accordance with the provisions of this part. Use under this subsection may not interfere with school instruction.

However, currently, the school's responsibility begins and ends with making the space available. Concerns are raised when registration is mandated or offered through the school administration or teachers. Specifically, there are concerns relating to undue influence and confidentiality of the students' registrations. Additionally, to require schools to conduct preregistration of potentially hundreds of students at any given high school is an administrative burden most would not welcome.

Registration and Voting by Formerly Incarcerated Persons

The Pennsylvania Voting Rights Act of 1995,²⁵ subsequently codified into the Consolidated Statutes, addressed registration of released felons thusly:

25 Pa.C.S. § 1301. Qualifications to register.

(a) Eligibility.--An individual who will be at least 18 years of age on the day of the next election, who has been a citizen of the United States for at least one month prior to the next election and who has resided in this Commonwealth and the election district where the individual offers to vote for at least 30 days prior to the next ensuing election and has not been confined in a penal institution for a conviction of a felony within the last five years shall be eligible to register as provided in this chapter.

²⁵ Section 501, act of June 30, 1995 (P.L.170, No. 25).

However, this provision's imposition of a five-year post release ban on registration of ex-felons was found unconstitutional by the Pennsylvania Commonwealth Court in 2000.²⁶ The statute has not been amended to reflect that ruling, but the Department of State website provides the following information on incarcerated persons, detainees, and parolees who may not register to vote:

- Are currently confined in a penal institution for conviction of a felony and will not get released from confinement until after the next election. This is the policy even if the person is also incarcerated for one or more misdemeanor offenses.
- Are in a halfway house or other alternative correctional facility on pre-release status for conviction of a felony and who will not get released until after the date of the next election.
- Were convicted of violating any provision of the Pennsylvania Election Code within the last four years.

The holding of the *Mixon* case should be codified. It is bad practice to allow what is essentially an "amendment" to a statute to remain in case law, when the entirety of the law should be in one place.

In the SURE system, incarcerated persons who are ineligible to vote are not removed from the voter lists, but instead their status is marked as "hold". Once county election officials are advised of a person's release (assuming they are otherwise eligible to vote), their status is changed back to "active." Individuals are responsible for verifying their status as voters. If a person is unable to return to their pre-prison address for any reason, including as a condition of parole, the person would have to provide a change of address to election officials. There is no direct notification from correctional facilities to counties of a prisoner's release; a state requirement could only be applied to state and local facilities, but not federal penitentiaries. Persons who are being released due to completion of their sentence or who are paroled are provided with educational materials at that time.

Incarcerated persons who are eligible to vote register in their home districts and then vote via absentee ballot from their place of incarceration.

²⁶ *Mixon v Commonwealth*, 759 A.2d 442 (Pa. Cmwlth 2000).

Voter Identification

In general, voter identification laws require voters voting in-person at the polls to present some form of identification. In some states, voter identification is required for all voters voting in-person. In other states, identification is only required for certain in-person voters. The topic of voter identification has become the source of intense debate. Those who support voter identification laws argue that they are instrumental in preventing voter fraud. Voter identification proponents also argue that such laws do not decrease minority voter turnout, nor do they exact a burden on minority voters.

Proponents also point to widespread voter support for voter identification laws – 80 percent of Americans support the implementation of voter identification laws.²⁷ A 2018 Pew Research survey found that 76 percent of Americans who support voter identification laws support strict ones. Another report found that 68 percent of Americans support strict voter identification laws, with 19 percent opposing, and the remaining 13 percent being neutral. This support has crossed partisan and even racial lines, though the differences in support between the parties is statistically significant.²⁸

According to one study, 90 percent of Republicans support strict voter identification law, compared to 60 percent of Independents and 50 percent of Democrats. On the other hand, 23 percent of Democrats, 30 percent of Independents, and only 3 percent of Republicans oppose them. Clear majorities across racial and ethnic groups support strict voter identification laws, which proponents often highlight in rebuttal to claims that such laws burden minority voters.²⁹ When support is broken down by race, it is reported that 70 percent of White respondents support strict voter identification laws, as do 66 percent of Hispanic respondents, 56 percent of Black respondents, and 61 percent of those who did not identify as White, Hispanic, or Black (this “Other” group includes those who

²⁷ Justin McCarthy, “Four in Five Americans Support Voter ID Laws, Early Voting,” *Gallup*, (Aug. 22, 2016), <https://news.gallup.com/poll/194741/four-five-americans-support-voter-laws-early-voting.aspx>, Last accessed on December 8, 2021.

²⁸ Kristen Bialik, “How Americans View Some of the Voting Policies Approved at the Ballot Box,” *Pew Research Center*, (Nov. 15, 2018), <https://www.pewresearch.org/fact-tank/2018/11/15/how-americans-view-some-of-the-voting-policies-approved-at-the-ballot-box/>, Last accessed on December 8, 2021.

²⁹ Josh Hochberg, “Strict Voter ID Laws are Popular Among Majorities in Both Parties, Racial, and Ethnic Groups,” *Tufts Public Opinion Lab*, (Mar. 8, 2021), <https://tufts-pol.medium.com/strict-voter-id-laws-are-popular-across-parties-racial-and-ethnic-groups-cc9a5c80354>, Last accessed on December 8, 2021, *citing to* American National Election Studies (ANES), “ANES 2020 Time Series Study Preliminary Release: Pre-election Data User Guide and Code Book,” (Feb. 11, 2020), https://electionstudies.org/wp-content/uploads/2021/02/anes_timeseries_2020_userguidecodebook_20210211.pdf, Last accessed on December 8, 2021.

identified as Asian, Native Hawaiian, Pacific Islander, Native American, Alaska Native, or multiple races).³⁰

Opponents of voter identification laws argue that such laws can in fact disenfranchise minority voters and some state courts have agreed to a certain extent. For instance, opponents argue that a 2015 U.S. Government Accountability Office (GAO) report did find a voter turnout decrease among minority groups associated with stricter voter identification laws. Moreover, while many proponents of stricter voter identification laws point to studies that have found it has little to no effect of disenfranchising minorities, opponents argue that most of those studies were performed before some of the strictest voter identification laws were adopted.³¹

While the GAO's study on voter identification laws in Kansas and Tennessee indicated that the laws may have decreased turnout by a few percentage points, with larger effects among younger, black, and newer potential voters, it should be noted that the 2015 study also reviewed studies with mixed results. Of the ten studies the GAO reviewed, five found no significant effect on turnout, one found increased turnout, and four found decreased turnout (between one and four percentage points).³²

A 2016 study by the Michigan State University Institute for Public Policy and Social Research found evidence suggesting that voter identification requirements appeared to widen the turnout gap between non-minority and minority American citizens. Specifically, the study found that Latino voter turnout was 10.3 percent lower in states with photo identification requirements, while multi-racial Americans' turnout was 12.8 percent lower. In addition, voter turnout among naturalized citizens (those citizens not born in the United States), was 12.7 percent lower in general elections.³³

Another study performed in 2017 by a political scientist at the University of California Davis, found that the more thorough studies generally found modest, if any, voter turnout effects of voter identification laws. This conclusion was based on a comprehensive review of voter identification studies where great emphasis was placed on rigorous studies and less thorough studies with questionable methodologies were filtered out. It was reported that some studies conducted empirical tests and analyzed turnout effects of voter identification laws without utilizing a research design accounting for the nonrandom assignment of voter laws. The result is that many of these studies reported substantively significant results but were also variable and inconsistent.³⁴

³⁰ *Ibid.*

³¹ U.S. Government Accountability Office, "Elections: Issues Related to State Voter Identification Laws," (Feb. 27, 2015), <https://www.gao.gov/products/gao-14-634>, last accessed on February 22, 2022.

³² *Ibid.*

³³ Zoltan Hajnal, Nazita Ljevardi, Lindsay Nielson, "Voter Identification Laws and the Suppression of Minority Votes," Michigan State University Institute for Public Policy and Social Research," (Jan. 2016), <http://ippsr.msu.edu/research/voter-identification-laws-and-suppression-minority-votes>, last accessed on February 22, 2022.

³⁴ Benjamin Highton, "Voter Identification Laws and Turnout in the United States," University of California, Davis, Vol. 20:149-167, (May 2017), doi.org/10.1146/annurev-polisci-051215-02282.

It is worth noting that the 2017 report found studies highlighting positive turnout effects related to the enacting of stricter voter identification laws. For instance, some voters expressed emotional responses of anger to increased voter identification requirements, which to some extent, fueled an increase in their likelihood to vote, thus counterbalancing potential negative effects on voter turnout.³⁵

A 2019 (with 2021 revisions) study reviewing a 1.6 billion nationwide observations panel between 2008-2018, found that voter identification laws “have no negative effect on registration or turnout, overall or for any group defined by race, gender, age, or party affiliation.”³⁶ Moreover, the study concluded that the lack of negative impact on voter turnout cannot necessarily be attributed to voters’ reaction to the laws. However, it is 4.7 percent likelier that minority voters were contacted by a campaign when a state has strengthened voter identification laws. According to the study, this suggests that parties’ mobilization efforts may also offset modest effects of the laws on voter turnout of ethnic minorities. The study also concluded that strict voter identification requirements have no effect on fraud – actual or perceived.³⁷

While these studies do address the impact of voter identification laws on voter turnout, most of the studies were completed prior to the COVID-19 pandemic. This is worth noting because the pandemic itself may be an important factor to consider in the future regarding voter identification and its impact on voter turnout.

Opponents to stricter voter identification also point out that there is no evidence of large-scale election fraud that warrants stricter voter identification laws. They contend that stricter voter identification laws are not necessary if there is no real evidence of rampant election fraud.³⁸

In 2012, the Pennsylvania General Assembly enacted the Pennsylvania Voter ID Law (also commonly referred to as Act 18 of 2012), which required every voter to present certain forms of photo identification to cast a ballot. Specifically, the law provided that the primary form of identification required was a Department of Transportation (PennDOT) driver’s license or the non-driver equivalent. Moreover, the law provided that these identification cards would be provided “at no cost” if the applicant declared under oath that he or she lacked identification and needed it for voting purposes.³⁹

³⁵ *Ibid.*

³⁶ Enrico Cantoni, Vincent Pons, “Strict ID Laws Don’t Stop Voters: Evidence from a U.S. Nationwide Panel 2008-2018,” *NBER Working Paper Series, National Bureau of Economic Research* (2019, Revised May 2021), https://www.nber.org/system/files/working_papers/w25522/w25522.pdf, last accessed March 14, 2022.

³⁷ *Ibid.*

³⁸ Monmouth University, “Public Supports Both Early Voting and Requiring Photo ID to Vote,” (June 21, 2021), https://www.monmouth.edu/polling-institute/reports/monmouthpoll_us_062121/, last accessed on January 26, 2022.

³⁹ Act of March 14, 2012 (P.L. 195), No. 18.

In *Applewhite v. Commonwealth*, a group of registered voters and advocacy organizations filed suit in the Commonwealth Court against the Commonwealth of Pennsylvania, the governor, and the commonwealth's secretary, alleging that the Voter ID Law violated the Pennsylvania Constitution. Seeking declaratory and injunctive relief, the petitioners claimed that the Voter ID Law severely burdened the right of many qualified voters to vote, violating the due process, equal protection, and voter qualification provisions of the Pennsylvania Constitution.⁴⁰

The Commonwealth Court held that the in-person proof of identification requirements enacted under the law violated the fundamental constitutional right to vote. The court reasoned that the Commonwealth's Voter ID law failed to provide non-burdensome means for qualified electors to obtain compliant photo identification, and thus the law was facially unconstitutional.⁴¹

The court also found that there was insufficient evidence to support the claim that in-person voter fraud was such a problem that combatting it constituted a compelling government interest. Consequently, the restrictions on types of compliant identification bore no reasonable relation to the goal of establishing identity. The court further concluded that the law's photo identification requirement had the effect of disenfranchising valid voters.⁴²

However, the court also found that the law's requirements were not a violation of the equal protections clause because the requirements for in-person voting applied equally to all electors lacking compliant photo identification. The Court's ruling on proof of identification narrowly applies only to identification requirements for voters who appear to vote at their polling place.⁴³

The spectrum of state voter identification laws enacted across the U.S. generally can be divided into three observable categories – lenient, moderate, or strict. Pennsylvania's current voter identification laws have widely been viewed as lenient when compared to other states. Tennessee is an example of a state with strict voter identification laws. There, photo identification is required to vote and if not presented, the voter must vote on a provisional ballot and must return within two days to show an identification or signed affidavit.⁴⁴ Delaware has been categorized as having more moderate requirements as photo identification is not required and if identification is not presented, a voter must sign an affidavit affirming his or her identity.⁴⁵ New York is considered a lenient voter identification state, requiring no document of identification to vote.⁴⁶ Currently, there are 35 states that require or request voters to show some form of identification at the polls.⁴⁷

⁴⁰ *Applewhite v. Commonwealth*, 2014 WL 184988 (Pa. Cmwlth. 2014).

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ TN ST § 2-7-112(f).

⁴⁵ Delaware Code, Title 15, § 4937.

⁴⁶ NY ELEC § 5-214.

⁴⁷ National Conference of State Legislators, "Voter ID Laws," (January 7, 2022 – Updated Apr. 2022), <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>, last accessed on April 29, 2022.

Types of Identification Authorized

As noted above, voter identification laws and the types of voter identification permitted in those laws vary from state to state. The list of voter identification permitted across the U.S. is broad. Permitted forms of photo and non-photo identification across the U.S. include:

- State driver's license
- Voter registration card
- State-issued voter ID card
- State-issued non-photo ID card
- Non-photo ID issued by U.S. Government
- Native American census card
- Tribal ID card
- Credit card
- Property tax statement
- Vehicle insurance card
- Birth certificate
- Firearm permit
- Current bank statement
- Current utility bill
- Current paycheck
- Medicare or Medicaid card
- Certified document of naturalization
- State Department of Revenue ID card
- Veteran health identification card
- Public assistance identification
- Neighborhood association ID
- Pilot's license
- U.S. passport
- U.S. Armed Forces ID
- Student ID or employee ID card issued by college or university in the state
- Employee ID
- Hunting and fishing licenses
- Valid card issued by State Supplemental Nutrition Assistance Program (SNAP)
- Valid state Temporary Assistance for Needy Families program (TANF)
- Accompanying adult known to the voter for at least 6 months who may sign an affidavit affirming identity of voter
- Other generally recognized photo identification⁴⁸

⁴⁸ *Ibid.*

Some recent state voter identification laws have been found unconstitutional. On March 18, 2022, an Arkansas law (Act 249) enacted in 2021, which removed the option for a voter who could not present photo identification at the polls to sign an affidavit affirming their identity, was found unconstitutional by an Arkansas circuit court. Instead, the law required that an individual without a compliant identification had to return to the county board of elections within six days after election day to provide compliant identification. The court held that this requirement impaired the right to vote by creating an undue burden, especially for the elderly or lower income individuals who may be infirm or lack transportation. According to the court, the burdens of the law were not supported by any legitimate state interest, let alone a compelling one. This holding is in the process of being appealed.⁴⁹

On April 6, 2022, the Montana Thirteenth Judicial District Court found Montana's 2021 voter identification law (MT SB 169) requiring voters using student identification to provide a secondary form of identification, such as a current utility bill or bank statement, unconstitutional. Under strict scrutiny, the court opined that requiring a secondary form of identification created an undue burden on the fundamental right to vote of young voters and granted a preliminary injunction of the law. The court also opined that there was little evidence of voter fraud among young voters, and therefore no compelling interest that would justify the burden imposed by the law. This holding is also being appealed.⁵⁰

Pennsylvania does not require returning in-person voters voting at a polling place to show identification. However, voters voting for the first time in an election district, must show proof of identification, with either photo or non-photo identification. Currently, Pennsylvania allows a variety of both photo and non-photo identification for new voters. Pennsylvania also permits an elector to cast a provisional ballot if he or she is unable to produce accepted proof of identification. The county board of elections then has seven days to examine and determine the elector's eligibility to vote.⁵¹ Permissible forms of photo and non-photo identification in Pennsylvania include those shown in Table 1.

⁴⁹ *The League of Women Voters of Arkansas v. Thurston*, 60CV-21-3138 (Cir. Ct, Fifth Div. Ark., 2022).

⁵⁰ *Montana Democratic Party et al. v. Jacobsen*, DV 21-0451, (Mont. 13th Dist. Court, 2022).

⁵¹ Act of June 3, 1937 (P.L. 1333), Art. XIII, § 1112 *as amended by* Act of March 27, 2020 (P.L. 41, No. 12), § 6; 25 P.S. § 3050(a.2), (a.4)(4).

Table 1
Current Permissible Photo and Non-Photo ID
for First Time Voters in Pennsylvania

Photo Identification	Non-Photo Identification
PA driver’s license or PennDOT ID card	Voter registration card issued by the County Voter Registration Office
ID issued by any Commonwealth agency	Non-photo ID issued by any Commonwealth agency
ID issued by any U.S. Government agency	Non-photo ID issued by U.S. Government
U.S. passport	Firearm permit
U.S. Armed Forces ID	Current utility bill
Student ID	Current bank statement
Employee ID	Current paycheck
--	Government check

Source: Data charted by the Commission from Pennsylvania Department of State, “DOS Voting & Election Information,” <https://www.vote.pa.gov/Register-to-Vote/Pages/Voter-ID-for-First-Time-Voters.aspx>, last accessed on January 26, 2022.

Changes to the current voter identification laws in Pennsylvania can be approached in a few different ways. Broadly, there could be an amendment to the law requiring that all voters (not just first-time voters) must show some valid form of identification to cast a ballot. This has been proposed in legislation, such as Senate Bill 735 (Printer’s No. 952) of 2021, which would amend the Pennsylvania Constitution to require all qualified electors to present valid identification before receiving a ballot to vote in-person or not in-person. This bill was last referred to the House State Government Committee on June 11, 2021.⁵² A more specific approach to amending Pennsylvania’s voter identification laws could involve changes in what types of photo and non-photo identification would be “valid” to cast a ballot. This, too, has come up in different pieces of proposed legislation, including House Bill 2540 (Printer’s No. 3023) of 2022 which proposes to amend the definition of “proof of identification” in the Election Code. This bill was referred to Committee on State Government on April 25, 2022.⁵³

⁵² S.B. 735 (P.N. 952) (Sess. 2021).

⁵³ H.B. 2540 (P.N. 3023) (Sess. 2022).

Should the General Assembly decide to expand its voter identification requirements, the concern of election security and integrity must be balanced against the potential effect of disenfranchising certain groups of voters. This can be accomplished by establishing reasonable voter identification measures tied to legitimate security and integrity concerns. Any proposed amendments to existing voter identification requirements in Pennsylvania must also consider the rationale established in court precedence (i.e. *Applewhite v. Commonwealth*).

Pennsylvania could consider revising its voter identification laws, which are currently viewed as lenient. The Commonwealth would not be alone in re-examining its voter identification laws. According to NCSL, many states have been introducing and enacting new voter identification legislation over the past several years going back to 2011. See Table 2.

Table 2			
State Legislative Introductions and Enactments			
2011-2021			
Year	No. of States	Introductions	Enactments
2011	37	138	12
2013	35	121	15
2015	34	115	8
2017	37	113	6
2019	31	92	12
2021	39	160	6

Source: NCSL, Voter ID Introductions, 2011-2021, <https://www.ncsl.org/research/elections-and-campaigns/voter-id-where-have-we-been-where-are-we-going-magazine2021.aspx>, last accessed on February 15, 2022.

Satellite Offices

Six of the most highly populated counties in Pennsylvania utilize satellite election offices. These satellite offices in some cases provided voters with additional options to cast their vote. Though they exist in some counties, there is very limited guidance on their operation, and nothing expressly covered by statute. Proposed legislation, House Bill 1800 (Printer's No. 2431) of 2021 (HB 1800) would establish an early voting period and permit counties, as necessary to establish satellite offices, requiring that each office meet the same requirements and restrictions of a polling place. Furthermore, the bill requires that the offices offer the same capabilities and services as a polling place, be operated by paid staff of the county board, and be established in a permanent building. The offices must also be geographically distributed across the county, and the location and hours of operations of each office must be published 30 days prior to its establishment. After early voting is established, satellite offices may only be established at the same premises as early voting locations.

Satellite offices may be worthwhile in some counties, but not in others. As such, mandating the creation and operation of such offices would likely not be beneficial to the Commonwealth as a whole, and could end up being a problematic unfunded mandate that many counties would struggle with maintaining. If Pennsylvania is going to expressly permit counties to establish them however, there is currently no existing standards for how the offices should be maintained and operated.

The Commonwealth may want to consider enacting express statutory language permitting counties to establish satellite election offices as necessary with a uniform set of standards for the operation of the offices across Pennsylvania. Clear cut statutory requirements, rather than DOS guidance, could potentially help county election offices adhere to rules while eliminating any potential ambiguities associated with running such offices. Statutory requirements could also help build and foster trust among voters regarding the use of such offices throughout the election process. Statutory requirements could include provisions on the use of video cameras in satellite offices, as well as whether there should be sheriff deputies within the vicinity.

Early Voting and Voting Centers

Early voting terminology often differs state-to-state. Some states refer to early voting as early in-person voting, in-person absentee voting, or advanced voting. The National Conference of State Legislators (NCSL) categorizes a state as having early in-person voting if it is available to all voters, and NCSL distinguishes between "early voting," which functions similarly to Election Day voting, and "in-person absentee voting," which is when a voter requests, completes, and signs an absentee ballot in a polling place or an election office. NCSL has acknowledged that from the voter's perspective, the experiences of early voting and in-person absentee voting are essentially the same.⁵⁴

⁵⁴ National Conference of State Legislators, "Early In-Person Voting," <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>, last accessed on May 4, 2022.

According to NCSL, forty-four states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands offer early in-person voting (this includes states with all-mail elections). Delaware recently enacted early voting set to take effect in 2022. There are six states that do not expressly permit pre-Election Day in-person voting options. These states include Alabama, Connecticut, Mississippi, Missouri, New Hampshire, and South Carolina.⁵⁵

Pennsylvania currently permits early voting in the form of mail-in voting and in-person absentee voting. The Pennsylvania Department of State (DOS) provides a short guide to voting early in-person by mail-in or absentee ballot, offering a 7-step process where a voter can essentially request, complete, and return an absentee ballot all in one visit to a county election office. The early voting period for this practice begins 50 days prior to Election Day and ends at 5p.m. the first Tuesday prior to Election Day. During the early voting period, county election offices are open during regular office hours. The Election Code does not expressly authorize this all-in-one process; however, there is no language in the code that prohibits it.⁵⁶

While the DOS provides guidance on Pennsylvania's current practice of in-person absentee voting in county election offices, there is no express statutory language authorizing this practice or enumerating requirements. Singular reliance on DOS guidance over statutory prescription has led to some confusion among administrators who run Pennsylvania's elections. In addition, voters review DOS guidance on early in-person voting and often misinterpret the terms used in the guidance to mean that voters can vote early in-person much as they would at a polling location on Election Day. Administrators and officials spend considerable time clearing up the confusion and redirecting voters looking to cast a ballot early. The lack of express statutory language on the current early voting practice may also undermine voters' confidence in the election process.

To clarify the current in-person absentee and mail-in voting system, Pennsylvania may want to consider enacting legislation that clearly defines early voting with an absentee ballot and early voting with a mail-in ballot to ensure that voters and election officials know and understand the difference. If desired, said legislation should spell out the procedures by which counties may permit early in-person absentee voting and mail-in voting. Such legislation could provide clear procedural requirements to county election offices, legally supported by statutory language, rather than DOS guidance. The legislation could also clearly distinguish early in-person absentee voting from early in-person mail-in voting. Statutory provisions clearly detailing the current system may also restore confidence among voters in the election process.

The current overlapping deadlines for early absentee voting and applications for mail-in ballots has created a significant burden on counties' election staff. Before the Commonwealth considers making any significant transformations to the existing election system, it may want to first consider addressing these deadlines. There is a domino effect of issues stemming from them if the deadlines do not work.

⁵⁵ *Ibid.*

⁵⁶ Act of June 3, 1937 (P.L. 1333), art. XIII, § 1302.1; 25 P.S. § 3146.2a.

To alleviate the burdensome workload on county election officials, the Commonwealth may want to consider moving back the mail-in ballot application deadline, so it does not overlap with the deadline to cast a vote early in-person in the county election office. Election stakeholders largely agree that it would be beneficial to move the date back 14 days before the election.

Confidence in elections held within the Commonwealth has been severely strained since the 2020 presidential election. Moreover, issues of election security, voter turnout, and convenience remain high on many voters' minds as new elections approach.

While Pennsylvania permits early voting in the form of in-person absentee and mail-in voting, it does not permit early in-person voting in the traditional form of voting in-person at a polling precinct or voter center prior to Election Day. Some states that permit early in-person voting as defined by NCSL include Arizona, Arkansas, Florida, Georgia, Kentucky, Massachusetts, New Jersey, New York, Tennessee, and Texas. States that permit early in-person voting allow for an early in-person voting period that ranges in length from three days to over 40 days. Such states often utilize county election offices, public buildings, and statutorily established voting centers. In addition, these states often require that counties use electronic poll books to help ensure efficiency and election integrity.

Early in-person voting at a polling location or voting center could incrementally allow election officials to accomplish a multitude of administrative tasks with more ease leading up to Election Day. The practice could also allow for quicker election results. Moreover, early in-person voting could increase voter turnout because people will be provided with more options and may feel more inclined to vote with the new options. Alternatively, increased voting options could also potentially decrease participation among voters by essentially creating an election season and giving voters more opportunities to forget or put off voting because voters would have more time and many more options to do it.

While the possibility of establishing a formal early in-person voting period may have some advantages, it may also come with some disadvantages. Early in-person voting could lead to increased election-related costs, especially if vote centers are used. Some of the costs could result from having to operate and staff vote centers throughout an early voting period. Finding appropriate staffing levels to staff vote centers for an early voting period may also be difficult in a system that is already short-staffed.

Before the Commonwealth considers a full-scale transformation into an actual early in-person voting system, small adjustments to precinct voting and the current early absentee voting system may be more appropriate topics ripe for discussion. Most importantly, and as noted above, the Commonwealth could first consider moving back the mail-in ballot application deadline, so it does not overlap with the deadline to cast a vote early in-person in the county election office.

Other high priority considerations should include precisely identifying the details of the current early absentee voting procedure. For example, there should be consideration given to whether there is a need for statutory provisions as to who can staff the county election office to handle absentee ballots and whether there needs to be required signage at the county election office. Further, there may need to be a legal requirement that all county election staff who handle

the early absentee voting process take an oath and be subject to penalties for any violations of the Election Code. A legal requirement that election offices have video recording of the process may also be advisable. All adjustments to the current system should be memorialized statutorily rather than provisional guidance published by the DOS.

Pennsylvania currently employs a precinct voting system on Election Day. Voting precincts are essentially subdivisions of counties where all electors in locally specific and contiguous area must go to cast their ballots. If the Commonwealth were to move to an actual early in-person voting system like many other states, it would likely need to utilize vote centers. NSCL defines vote centers as an alternative to traditional, neighborhood-based precincts. When a jurisdiction opts to use vote centers, voters may cast their ballots on Election Day at any vote center in the jurisdiction, regardless of their residential address.

Pennsylvania HB 1800 and House Bill 1703 (PN 1925) of 2021 (HB 1703) would require the creation of voting centers for an early in-person voting period beginning the second Friday prior to an election and ending on the first Wednesday prior to an election. HB 1800 requires that there be one center per county, with an additional vote center for each 100,000 residents (except no requirement for more than five per county). The same bill requires that during the early voter period, each center operate 7a.m. to 8p.m. each day and requires a 30-day publication notice (hours and location) prior to each center's establishment. Vote centers must also be housed within a permanent building which must be a public library, public or private school, college or university building, courthouse or a municipal, county, or Commonwealth-owned building. Each must also be geographically distributed throughout a county to ensure voter access.⁵⁷

The legislation further requires that vote centers utilize electronic poll books and use the same type of voting machines the county uses. Centers must also be ADA accessible and must be continually secured, monitored by staff and by video recording from beginning to end, including overnight. Video recording must be retained and available to the public. HB 1800 also would require the DOS to reimburse each county for half of the costs incurred by operating the centers.⁵⁸ HB 1703 has many of the same requirements for vote centers as HB 1800. HB 1800 was removed from the table on March 29, 2022 in the House, while HB 1703 was last referred to the House Committee on State Government on June 24, 2021.⁵⁹

Establishing vote centers could provide greater convenience to voters. For example, citizens could have the option to vote near their home, near work or school, or anywhere that is relatively convenient to their varying locations. This convenience could bring about an increase in voter turnout, as well.

Vote centers could also generate some potential drawbacks. Having to establish vote centers in addition to traditional polling locations would result in a large financial burden for Pennsylvania's counties, even if half of the cost is absorbed by the DOS. This increase in cost may still result if vote centers simply replace polling locations, especially if they had to be staffed for

⁵⁷ H.B. 1800 (P.N. 2431) (Sess. 2021).

⁵⁸ *Ibid.*

⁵⁹ H.B. 1800 (P.N. 2431) (Sess. 2021); H.B. 1703 (P.N. 1925) (Sess. 2021).

the full duration of an in-person early voting period. Finding adequate staffing for these vote centers during the early voting period may also serve as an obstacle.

Vote centers may also have the unintended effect of disenfranchising certain voters if there is an inadequate distribution of the centers. Senior citizens in more rural portions of the counties may not have adequate transportation to access the vote centers, whereas with many local precincts, individuals could simply walk to cast their ballot. Furthermore, some individuals may not feel comfortable driving to strategically located vote centers in highly populated hub-areas or city locations to cast their vote when they have always done so locally. Many individuals may also feel as though they have lost the civic experience of voting among their community and their neighbors at their local precinct. Such issues could decrease voter turnout.

Some stakeholders have concerns that simply adding vote centers and an early in-person voting system over top or in addition to the current system would significantly overburden already exasperated administrative personnel and resources in the counties.

The creation of vote centers, along with an in-person early voting system would bring about a significant number of issues that should be carefully considered after substantial improvements are made to the existing system already in place. It may be advisable to carefully observe the implementation of vote centers in other states, while keeping in mind that what may be beneficial or effective in other states may not necessarily be beneficial or effective in Pennsylvania.

Electronic Poll Books

A few counties within Pennsylvania utilize electronic poll books to assist in their elections. Electronic poll books are essentially laptops or electronic tablets that allow voters to sign electronically. They also allow election staff to scan driver's licenses, allow real-time updates of voter history, and assist election personnel in many other useful ways. Election stakeholders agree that electronic poll books are essential if the Commonwealth were to move to an early in-person voting system with vote centers because a voter may be able to vote early at a vote center and then vote again on Election Day – without pollbooks, that voter may never be caught. Many also agree that electronic poll books can help make the current election system run more seamlessly, especially with respect to in-person absentee voting.

While some counties may have the resources to fund and maintain the use of electronic poll books, other counties may not. For counties already experiencing financial austerity, funding the use of electronic poll books throughout their jurisdiction may not be feasible.

Given that many stakeholders agree that electronic poll books provide a substantial benefit (many which are listed above) to the current election system, it may be advisable to have a statutory provision requiring that each county use and maintain electronic poll books and that the DOS fully or at the very least, partially fund the costs of these books. There have been several pieces of proposed legislation addressing the use of electronic poll books including HB 1800 mentioned previously in this section, as well as House Bill 2090 (Printer's No. 2522) of 2021 (HB 2090,

which would require each county election board to use electronic poll books that meet minimum standards established by the Secretary of State. HB 2090 would permit the DOS to be a project applicant under the Pennsylvania Financing Law to apply for funding of electronic poll books and other related infrastructure through bond obligations. HB 2090 was last referred to the House State Government Committee on December 14, 2021.⁶⁰

⁶⁰ H.B. 2090 (P.N. 2522) (Sess. 2021).

ELECTION OFFICIALS AND WORKERS

Training for County Election Officials

Article III, § 301(a) of the Election Code requires that there be a county board of elections in and for each county of Pennsylvania, with jurisdiction over the conduct of primaries and elections in such county.⁶¹ Generally, the county board consists of the county commissioners of such county ex officio, or any officials or board who are performing or may perform the duties of the county commissioners. These officials are prohibited from receiving additional compensation for their service on the board. However, in counties of the first class, counties which have adopted home rule charters or optional plans, the board of elections consists of the members of the county body which performs legislative functions, unless the charter or optional plan provides for appointment of the board.⁶²

County election boards have the statutory authority to select and equip polling places; purchase, preserve, store, and maintain election equipment; appoint their own employees, voting machine custodians, and machine inspectors; and issue certificates of appointment to watchers at elections. Boards have the authority to make and issue rules, regulations, and instructions, not inconsistent with the law, necessary to guide voting machine custodians, election officers, and electors through elections. County boards also investigate election frauds, irregularities, and violations of the Election Code.⁶³

Under their authority to appoint their own employees, county boards of elections appoint officials to supervise the local district election boards. These appointed officials are often referred to as election directors. Under § 303(b) of the Election Code, county boards may also appoint a chief clerk, who administers oaths, and signs vouchers, along with any other employees of the county commissioners to act as such for the county board of elections without any additional compensation.⁶⁴

The combined stressors of a pandemic, a hotly contested Presidential election, and the relative novelty of mail-in ballots, as well as the unanticipated popularity of those ballots, drove many election directors in Pennsylvania to retire or change careers after the November 2020 election. Consequently, 2021 saw an influx of new election directors who had to rely on the institutional knowledge of other employees, advice from more experienced directors in neighboring counties, or create their own roadmaps to navigate the election process and its recently pandemic-adapted procedures. The Pennsylvania Department of State provided support primarily

⁶¹ Act of June 3, 1937 (P.L. 1333, No. 320), § 301(a); 25 P.S. § 2641(a).

⁶² *Ibid.* § 301(b); 25 P.S. § 2641(b).

⁶³ *Ibid.* § 302; 25 P.S. § 2642(b)-(f), (I).

⁶⁴ *Ibid.* § 303(b); 25 P.S. § 2643(b).

in the form of technology and equipment needs. However, the question as to whether there should be formal or standardized training for election directors across the Commonwealth has emerged as a topic of interest among election officials and legislators.

As mentioned previously, county election directors in many cases must prepare their own election timeline guidance manuals to help navigate Pennsylvania's election processes. However, there are election resources and materials currently available at the local, state, and federal level.

Pennsylvania Department of State

The Department of State (DOS) provides election resources in several different forms. For example, the DOS attends the annual conference of the Association of PA County Election Personnel and presents information. DOS also offers periodic state election webinars. The DOS also offers optional online or in-person training to election officials and workers throughout the Commonwealth. In partnership with the County Commissioners Association of Pennsylvania (CCAP), the DOS also offers Security Awareness Training.⁶⁵

Accessible from its official website, the DOS provides what it calls "Election Administration Tools." The Election Administration Tools resource is a collection of guidance manuals on specific topics such as Act 12, Act 77, and administrative matters such as absentee and mail-in return guidance, and proper examination of absentee and mail-in ballot return envelopes. The tools also include guides and manuals on the use, implementation, and operation of electronic voting systems. Other topical guides available in PDF form on the DOS site include:

- Voter identification requirements
- Guidance on voter intimidation
- Guidance on rules in effect at the polling place
- Voting procedures for the elderly and handicapped
- UOCAVA⁶⁶ compliance measures
- Voting system certification
- Additional Electronic Voting System (EVS) procedures
- Guidance concerning voter privacy at the polling place
- Provisional ballot guidance
- Guidance on poll watchers
- Guidance on voter registration
- County election administration preparation checklist
- Other miscellaneous election topics⁶⁷

⁶⁵ Pennsylvania Department of State, "Voting & Elections,"

<https://www.dos.pa.gov/VotingElections/Pages/default.aspx>, Last accessed December 2, 2021.

⁶⁶ The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) Pub. L. 99-410, 100 STAT 924; 52 U.S.C. §§ 20301–20311. UOCAVA was enacted by Congress in 1986 and requires that the states and territories allow certain groups of citizens to register and vote absentee in elections for Federal offices.

⁶⁷ Pennsylvania Department of State, "Election Administration Tools,"

<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Adminstration-Tools.aspx>, Last accessed on December 2, 2021.

However, there is currently no formalized or standard DOS training manual or guide specifically designed to assist Pennsylvania’s county election directors navigate through their election responsibilities.

County Commissioners Association of Pennsylvania (CCAP)

The County Commissioners Association of Pennsylvania (CCAP) was established in 1886 and is an affiliate of the National Association of Counties. CCAP is a “statewide, nonprofit, bipartisan association representing the commissioners, chief clerks, administrators, their equivalents in home rule counties, and solicitors of Pennsylvania’s 67 counties.”⁶⁸ In its representation of Pennsylvania county officials, CCAP provides county leaders with information and guidance related to legislation, education, media, insurance, technology, and other issues regarding crucial services impacting residents throughout the state. In doing so, CCAP seeks to “educate and inform the public, administrative, legislative and regulatory bodies, decision makers, and the media about county government.”⁶⁹ As mentioned above, CCAP has also partnered with the DOS to offer Security Awareness Training for elections.

U.S. Election Assistance Commission (EAC)

Established by the Help America Vote Act of 2002 (HAVA), the U.S. Election Assistance Commission (EAC) is an “independent bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information on election administration.”⁷⁰ The EAC submits an annual report to Congress and its members periodically testify about HAVA progress and related issues. The EAC holds public meetings and hearings to inform the public about its progress and activities. The EAC also provides webinars, best practice guides, and opportunities for local election officials to meet and exchange ideas.⁷¹

In addition to providing general election resources, the EAC also provides online election cybersecurity training for interested election officials. The election cybersecurity training consists of video and written materials separated into three modules. Training content within the modules is intended specifically for election administrative officials. To assist these officials, the program provides foundational knowledge on cybersecurity terminology, best practices in election offices, practical application, and communication.⁷²

⁶⁸ County Commissioners Association of Pennsylvania, “Mission Statement,” <https://www.pacounties.org/getmedia/1436b364-86c8-4e3e-ab3c-d4c5a3777ac6/CCAPCorporateMission2013Update.pdf>, Last accessed on December 3, 2021.

⁶⁹ County Commissioners Association of Pennsylvania, “Who We Are,” <https://www.pacounties.org/who-we-are>, Last accessed on December 3, 2021.

⁷⁰ Help America Vote Act, 2002 Pub. L. 107-252, 116 STAT 1666, § 201; 52 USC § 10101; U.S. Election Assistance Commission, “About the U.S. EAC,” <https://www.eac.gov/about-the-useac>, Last accessed on December 2, 2021.

⁷¹ *Ibid.*

⁷² U.S. Election Assistance Commission, “Media: News – U.S. Election Assistance Commission Offers No-Cost Online Cybersecurity Training for Election Officials,” <https://www.eac.gov/news/2020/06/22/us-election-assistance-commission-offers-no-cost-online-cybersecurity-training>, Last accessed on December 3, 2021.

National Conference of State Legislatures (NCSL)

Established in 1975, the National Conference of State Legislatures (NCSL) is an organization that represents the legislatures in the states, territories, and commonwealths of the U.S. Its stated mission is “to advance the effectiveness, independence and integrity of legislatures and to foster interstate cooperation and facilitate the exchange of information among legislatures.”⁷³

Through its representation of legislatures, NCSL has advocated for state sovereignty and state flexibility and protection from unfunded federal mandates and federal preemption in circumstances it deems unwarranted. NCSL also serves as an informational resource on state election laws throughout the U.S. and provides legislative updates on said laws.⁷⁴

The Election Center (National Association of Election Officials)

The Election Center is a nonprofit 501(c)(3) tax-exempt organization pursuant to the regulations of the Internal Revenue Service. The Election Center’s purpose is “to promote, preserve, and improve democracy.”⁷⁵ The Center is also known as the National Association of Election Officials. To serve as a resource to election officials nationwide, the Center conducts conferences, workshops, and seminars. The center also administers the Certified Elections/Registration Administrator (CERA) program, which is the only program of continuing professional education specializing in voter registration and elections administration. Participants receive continuing education units (CEUs) from Auburn University. Between 600 and 1,000 election and voter registration administrators are trained in the program every year.⁷⁶

In addition, the Center provides an alert service to its members that informs and updates state, city, and other elections and voter registration officials on new legislation, regulations, court decisions, and Justice Department rulings related to voter registration or elections administration. The Center also provides a research component for governmental units and provides analysis on the differences between state or local laws, regulations, or practices concerning voter registration and elections administration. To highlight beneficial election practices, the Center sponsors an annual Professional Practices contest where government officials all over the U.S. submit a professional paper on the best of their office programs and practices. Such papers are then duplicated and circulated to government officials throughout the U.S.⁷⁷

Through a partnership with Auburn University’s public administration faculty, the Election Center offers a college level instruction program called the Professional Education Program. The program focuses on professional growth and development of government officials in the elections and voter registration process. These classes are conducted in several locations throughout each year. The program was recognized nationally, winning an award as the most outstanding

⁷³ National Conference of State Legislatures (NCSL), “About Us,” <https://www.ncsl.org/aboutus.aspx>, Last accessed on December 7, 2021.

⁷⁴ *Ibid.*

⁷⁵ Election Center, National Association of Election Officials, “About Us,” <https://www.electioncenter.org/about-us.html>, Last accessed on December 3, 2021.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

continuing education program in America from the National College and University Continuing Education Association in 1995.⁷⁸

University of Minnesota, Humphrey School of Public Affairs

The Humphrey School of Public Affairs at the University of Minnesota conducts an online certification program for election officials called the “Certificate in Election Administration.” This program was established as a direct response to the 2014 Presidential Commission on Election Administration report urging universities and colleges across the U.S. to integrate election administration into their curriculum with a goal of expanding the professional expertise in the field.⁷⁹

The program is targeted for experienced individuals already managing state and local election offices, as well as newer officials working in election administration. The 12-credit program is taught by prominent leaders in election administration and is accessible online 24 hours a day from anywhere in the world.⁸⁰

National Association of Secretaries of State (NASS)

Secretaries of State provide invaluable information on state election procedures and structures. Secretaries of State throughout the U.S. brief the public and the media in their respective states about election administration and election cybersecurity issues. NASS provides membership to these officials.⁸¹

The NASS was founded in 1904, making it the oldest, nonpartisan professional association for state government officials. NASS describes itself as a “medium for the exchange of information between states and fosters cooperation in the development of public policy.”⁸² NASS maintains key initiatives for the topics of elections and voting. Membership within NASS is open to all 50 states, the District of Columbia, and all U.S. Territories.⁸³

National Association of State Election Directors (NASED)

The National Association of State Election Directors (NASED) is a professional organization that represents the interests of state election directors. The NASED was formed in 1989 by a group of state election directors and administrators. In 1990, NASED’s original mission was focused on voting technology certification. In furtherance of this mission, the NASED created and maintained the first voting system certification program in the U.S. According to the NASED, it is the only professional organization specifically for state election directors in existence today.

⁷⁸ *Ibid.*

⁷⁹ University of Minnesota, Hubert H. Humphrey School of Public Affairs, “Certificate in Election Administration,” <https://www.hhh.umn.edu/certificate-programs/certificate-election-administration>, Last accessed on December 3, 2021.

⁸⁰ *Ibid.*

⁸¹ National Association of Secretaries of State (NASS), “Pillars of Service,” (2004).

⁸² National Association of Secretaries of State (NASS), “About NASS,” <https://www.nass.org/about-nass>, Last accessed on December 3, 2021.

⁸³ *Ibid.*

The association currently provides opportunities for state election officials to meet and exchange ideas and best practices.⁸⁴

International Association of Government Officials

The International Association of Government Officials focuses on equipping clerks, election officials, recorders, and treasurers with professional training and leadership development through industry specific education. The Association provides an accredited certification program, and offers emerging technology trends, while providing legislative awareness and other initiatives to government officials. The Association also provides general information to support local election officials and holds related events in support of said officials.⁸⁵

Other States

States vary on the level of training offered or required for election officials. Some states require election officials to complete state-sanctioned certification programs to serve in an official capacity. For example, Arizona requires election officials to attend and complete its Secretary of State Election Officer Certification program. This program is composed of state-provided training courses to receive certification on the technical, legal, and administrative aspects of conducting an election in Arizona.⁸⁶ The State of Arizona also provides a Secretary of State Election Procedures Manual. The manual outlines a collection of rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity, and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating, and storing ballots. State law requires that the manual be published at least 30 days prior to the election.⁸⁷

Montana offers an “Introduction to Election Administration” module through its Secretary of State. Montana state law requires mandatory election official training to receive certification.⁸⁸ Tennessee on the other hand, requires that all election officials receive state-provided training, and officials can elect to take a certification examination that will qualify them for a higher salary.⁸⁹

In Pennsylvania, there are no specific statutory or constitutional requirements to be employed by a county board of elections to assist in performing its duties. Additionally, there is no specific training required of individuals serving as election directors. The duties of the county board of elections are spelled out in § 302 of the Election Code, but they lack specificity about procedures. For example, county boards of election are required to “receive and determine, as hereinafter provided, the sufficiency of nomination petitions, certificates and papers of candidates for county, city, borough, township, ward, school district, poor district, election offices, and local

⁸⁴ National Association of State Election Directors, “About NASED,” <https://www.nased.org/about-nased>, Last accessed on December 3, 2021.

⁸⁵ International Association of Government Officials, “About Us,” https://iaogo.org/content.aspx?page_id=22&club_id=610929&module_id=397312, Last accessed on December 4, 2021.

⁸⁶ A.R.S. 16-407.

⁸⁷ A.R.S. 16-452.

⁸⁸ MCA 13-1-203.

⁸⁹ T.C.A. § 2-4-108.

party offices required by law or by party rules to be filed with the board.”⁹⁰ However, the areas of nomination paperwork, training county board employees and local board of elections members and poll workers, as well as campaign finance law filings and disclosure at the local level were lacking in specific guidance.

Not all procedures can be codified into one uniform set of instructions. Variations in counties’ geographic size, population, location, supply of resources, and funding make statewide standardization of all activities challenging. However, it has been suggested that some variations between counties can lead to disparity of access to voters from county to county. For example, different counties treat drop boxes very differently.

Procedures governing mail-in ballots were an area of confusion, and some aspects would benefit from statutorily delineated uniform procedures. Uniform guidance for all aspects of election processes and procedures is probably inadvisable for the reasons mentioned above. However, standardized uniform guidance on areas such as proper processing of nomination petitions, campaign finance disclosures, developing timetables for actions leading up to Election Day, formulas for determining how many employees will be needed to canvass and process mail-in and absentee ballots, and the number and location of drop boxes as well as the number of paper ballots to be provided, would be useful in ensuring equal access to the ballot regardless of which county a voter resides in.

Any guidance developed would benefit from consulting with experienced elections directors from various locations around the Commonwealth. Specifically, DOS could establish (or be statutorily required to create) an advisory panel for the purpose of developing specific guidance on the topics enumerated in the paragraph above. Election directors from each class of county, 1st through 8th, could provide a representative group of election experts to assist in the development of such guidance.

Certification of Officials

Currently, any individual can be hired to serve as a county election director. The employment is at the discretion of the county commissioners, and subject to whatever qualifications they feel are appropriate. Some election directors are hired with no previous experience in working with elections.

To help mitigate the potential for election experience gaps for newly hired directors, the Commonwealth could consider enacting legislation requiring all election directors to receive certification in election laws and procedures. This requirement would establish a standard level of qualification for all election directors. One example of such requirement can be found in Arizona, where all election officials must attend state-provided training courses under the Secretary of State Election Officer Certification program. The participants receive certification on the technical, legal, and administrative aspects of conducting an election.⁹¹

⁹⁰ *Supra*, n. 1; § 302(j); 25 P.S. § 2642(j).

⁹¹ A.R.S. § 16-407.

Arizona also provides a Secretary of State Election Procedures Manual, which prescribes rules to achieve and maintain the maximum degree of correctness, impartiality, uniformity, and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating, and storing ballots.⁹²

Montana also requires mandatory election official training to receive certification and offers an “Introduction to Election Administration” module through its Secretary of State.⁹³ Tennessee requires all elections officials to receive state-provided election training; however, election officials can choose to take a certification examination that can qualify them for a higher salary.⁹⁴

If desired, a certification program could be statutorily created. Currently no such program is proposed in Pennsylvania legislation. Before proposing one, it is important to note, that requiring election officials to complete a specific certification program could likely narrow an already limited field of applicants for these positions.

New legislation has been proposed before the General Assembly to address the lack of uniformity in training for election officials and workers. House Bill 1800 (Printer’s No. 2431) of 2021 (HB 1800) amends the Election Code by creating new duties for the existing Pennsylvania Election Law Advisory Board (ELAB). Specifically, the bill would require that the ELAB evaluate and make recommendations on:

[t]he rules prescribed in the official instructions and procedures manual under this section shall [which] include regulations and restrictions governing any vendors contracted by counties or the department for the printing or mailing of ballots.⁹⁵

If enacted, HB 1800 would also require the ELAB to establish a working group with directors of elections from a minimum of 10 counties. The working group would work collectively to prescribe rules to achieve and maintain an enhanced level of correctness, impartiality, uniformity, and efficiency on existing election procedures, such as early voting and of producing, distributing, collecting, counting, tabulating, and storing ballots. In addition, the ELAB would be required to “adopt rules regarding transmittal of unvoted ballots, ballot requests, voted ballots and other election materials to and from a qualified absentee military or overseas elector...”⁹⁶

The bill would also require the establishment of standards for “annual training requirements for all county election officials, poll workers, election observers, judges of elections and election integrity officers.”⁹⁷ According to the bill, training to fulfill the requirements must be conducted by the DOS and must be made available on all business days. The legislation received

⁹² A.R.S. § 16-452.

⁹³ MCA § 13-1-203.

⁹⁴ T.C.A. § 2-4-108.

⁹⁵ H.B. 1800 (PN. 2431) (Sess. 2021).

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

second consideration, with amendments on November 17, 2021, but was removed from the table in the House on March 29, 2022.⁹⁸

Another relevant piece of proposed legislation, Senate Bill 878 (Printer's No. 1078) of 2021 (SB 878) would impose the creation and production of official instructions and procedures manuals directly on the DOS. SB 878 was introduced and referred to the Senate State Government Committee on September 17, 2021. While the committee has held public hearings on the bill, it has not yet been reported from committee.⁹⁹ Specifically, the bill would impose on the DOS the duty:

(i) To obtain and maintain uniformity in the interpretation and implementation of election laws, which shall be posted on the Department of State's publicly accessible Internet website and shall provide citations to relevant provisions of this act and include:

(1) Official instructions and procedures manual that shall prescribe rules for all counties to achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for voting and of producing, distributing, collecting, counting, tabulating and storing ballots.

(2) Department directives that provide official or authoritative instructions to all counties that direct, guide and impel action or defined goals.

(3) Guidance documents that provide advice or information aimed at resolving a problem or difficulty.

(j) To establish rules submitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin by December 31 of each odd-numbered year regarding the transmittal of unvoted ballots, ballot requests, voted ballots and other election materials to and from polling places. Each rule shall provide citations to relevant provisions of this act.

(k) To provide technical assistance and reimbursement to county election officials for free-of-charge poll-worker and election-observer training, which shall include:

(1) Voter rights and responsibilities.

(2) Distribution of sample ballots.

(3) Election observer rights and responsibilities.¹⁰⁰

⁹⁸ Pennsylvania General Assembly, "Bill History: House Bill 1800, Regular Session 2020-2021," https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?syear=2021&sind=0&body=H&type=B&bn=1800, Last accessed on April 22, 2022.

⁹⁹ Pennsylvania General Assembly, "Bill History: Senate Bill 878, Regular Session 2020-2021," https://www.legis.state.pa.us/cfdocs/billinfo/bill_history.cfm?syear=2021&sind=0&body=S&type=B&bn=878, Last accessed on December 8, 2021.

¹⁰⁰ S.B. 878 (P.N. 1078) (Sess. 2021).

Poll Worker Training

In Pennsylvania, all primaries and elections are conducted in each election district by a district election board consisting of a Judge of Elections, Majority Inspector, Minority Inspector, Clerks, and Machine Inspectors. These officials manage and work at the polling sites on Election Day. Judge of Elections is an elected position with a four-year term. The Judge of Elections is the highest-ranking poll worker at the polling site and oversees election operations on Election Day.¹⁰¹ This official usually picks up election supplies before the election, and contacts inspectors and other election workers prior to Election Day to ensure their availability. The Judge of Elections also prepares reports at the end of the election day.¹⁰²

Majority Inspector is an elected position with a four-year term. The electors vote for an inspector and the Majority Inspector is the individual who receives the highest number of votes. Majority inspectors generally check voters in at the poll books and perform other duties assigned by the Judge of Elections on Election Day. Minority Inspector is the elected official who receives the second highest number of votes for inspector.¹⁰³ Like Majority Inspector, this official serves for a four-year term, checks voters in at the poll books, and performs other tasks assigned by the Judge of Elections.

If needed, Clerks are appointed by the Inspectors. Clerks generally perform duties assigned by the Judge of Elections such as, maintaining numbered lists of voters, checking names of voters arriving at the polls, verifying if the voter is in the correct voting district, and helping to close the voting system. Machine Inspectors, if needed, are appointed by County Boards of Elections. Duties of Machine Inspectors are assigned by the Judge of Elections and often include ensuring that voters with ballots reach a privacy screen/booth, take their marked ballot to a scanner, and then leave the polling place. Judge of Elections and Majority and Minority Inspectors must be at the polls throughout the entire duration of the Election Day. Alternatively, Clerks and Machine Inspectors may have split-day shifts.¹⁰⁴

To serve in these positions, the Election Code requires that an individual be a registered elector of the district in which they are elected or appointed to serve, except clerks who must only have residency in the county in which they are appointed to serve. Qualified individuals who hold or shall within two months have held any office, appointment, or employment in or under the US government or Pennsylvania state government or any city, municipality, district, or similar governmental agency, are not permitted to serve as poll workers.¹⁰⁵

¹⁰¹ *Supra*, n. 1 at § 401; 25 P.S. § 2671.

¹⁰² Pennsylvania Department of State, “Becoming a Poll Worker,” <https://www.vote.pa.gov/Resources/Pages/Be-a-Poll-Worker.aspx>, last accessed on January 25, 2022.

¹⁰³ *Supra*, n. 39.

¹⁰⁴ *Supra*, n. 40.

¹⁰⁵ *Ibid* at § 402; 25 P.S. § 2672.

Most states require training for some of their poll workers. Many states also require training for all their poll workers.¹⁰⁶ Training for poll workers in Pennsylvania is required if voting machines or tabulators are used at a polling place pursuant to the Election Code.¹⁰⁷ In addition, the Election Code provides the Secretary of State with express authority to develop a voluntary professional certification and poll worker training program for county election officials in consultation with county boards of elections.¹⁰⁸

Currently however, training primarily takes place at the county level with county resources. Many counties require training of election workers and provide annual in-person training and online training modules. Moreover, some counties require individuals to take a poll worker training test and require a certain score to successfully receive reimbursement for the out-of-pocket costs of the training, which the poll worker initially pays. Counties can review election administration tools and other training materials on the Department of State website regarding checking-in voters, voter identification, provisional ballots, voters with disabilities, and voters with limited English proficiency.¹⁰⁹

Overall, the quality of training resources available throughout the Commonwealth are sufficient. However, the Commonwealth could do more to ensure that quality training resources are implemented from county to county.

Currently, mandatory statutory training for all poll workers throughout the Commonwealth is not necessary to ensure all poll workers throughout all the districts in every county are properly trained. However, establishing a statewide best practice guide for county training of poll workers may help counties accomplish the most effective level of training. A good start for the content of the guide would be general DOS contact information, overview of election basics, roles, and responsibilities of each category of election worker, an Election Day supply checklist, procedures prior to opening of the polls, procedures during the opening of the polls, procedures for closing of the polls, handling complaints, COVID-19 precautions, and frequently asked questions.

Poll Worker Recruitment

Increased efforts have been made in recent years to recruit and retain enough poll workers to sufficiently staff elections throughout Pennsylvania. The Election Code currently permits the County Board of Elections to appoint students notwithstanding eligibility to vote to serve as a Clerk or Machine Inspector pursuant to certain conditions. There may, however, be no more than two students per precinct and each student must be under the direct supervision of the Judge of Elections. The applicable county may compensate students, but the board must comply with all state and federal laws regarding the student's service. To be eligible, a student at the time of the

¹⁰⁶ National Conference of State Legislatures, "Election Poll Workers," <https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx>, last accessed on May 4, 2022.

¹⁰⁷ *Supra*, n. 40; § 414; 25 P.S. § 2684.

¹⁰⁸ *Ibid* at § 201; 25 P.S. § 2621(f.1).

¹⁰⁹ Pennsylvania Department of State, "Election Administration Tools," <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Adminstration-Tools.aspx>, last accessed on January 25, 2022.

election for which they serve must be at least 17 years of age, a U.S. citizen and resident of the county they were appointed to serve in, enrolled in a secondary education institution with an exemplary academic record, approved by the principal or director of the student's secondary education institution, and parental consent obtained. Students may not serve as Judge of Election or Majority or Minority Inspector.¹¹⁰ To attract interest among high school students, districts often send representatives to talk to local high schools to inform students about Election Day service opportunities.

Counties and voting districts also employ other methods to recruit poll workers such as digital advertisements on social media platforms. Recognizing the importance of recruiting and retaining a sufficient poll worker workforce across the Commonwealth, HB 1800, proposes to increase the permitted range of compensation for poll workers from the current \$75 - \$200 to \$175 - \$300.¹¹¹

Despite many of the current recruitment and retention tools used, many districts in Pennsylvania have been experiencing shortages in poll workers. There are several speculated reasons for these shortages. A large portion of poll workers are over the age of 60 and are vulnerable to COVID-19. Consequently, the COVID-19 risks posed to many of these individuals have influenced many to stay at home as opposed to serve at the polls. The COVID-19 pandemic also created the need to establish a plethora of new safety and social distancing guidelines for in-person voting at the polls, complicating the operation and management of Election Day polling sites. Current pandemic conditions have also caused some poll workers to drop out at the last minute due to exposure concerns, which leaves election officials scrambling to fill staffing gaps.¹¹²

Employment of College Students

To proactively avoid potential staffing shortages, emergency staffing line-ups have been created for possible staff shortages prior to Election Day. Efforts have also been made by voting districts to recruit college students. While the recruiting of college students can be helpful in filling some election worker staffing gaps, college students are not always reliable to commit to service and in many cases are not always available – many are on break during primaries and are not in the area. In addition, irregular class schedules can make it difficult for students to fill the times of service needed on Election Day.

Employment of High School Students

The recruitment of high school students can also help fill staffing gaps for voting districts. Montgomery County is an example of a highly regarded high school recruitment program. However, like the recruitment of college students, the recruitment of high school students has limitations. For instance, the law precludes 17-year-olds from serving at a polling location for the full day. As such, many high school students cannot be fully utilized for all the polling location's

¹¹⁰ *Supra*, n. 1 at § 402; 25 P.S. § 2672(b)(1)-(6).

¹¹¹ H.B. 1800 (P.N. 243) (Sess. 2021).

¹¹² Michael Barthel and Galen Stocking, "Older People Account for Large Shares of Poll Workers and Voters in U.S. Elections," *Pew Research Center*, (Apr. 6, 2020), <https://www.pewresearch.org/fact-tank/2020/04/06/older-people-account-for-large-shares-of-poll-workers-and-voters-in-u-s-general-elections/>, last accessed on January 25, 2022.

needs throughout Election Day. It is worth noting that reliable high school students who had proven their dedication, often leave for college by the next election and can no longer be depended upon to return.

Expanding Split Shifts

The long 15-hour Election Day shift for Judges of Elections and Inspectors should also be considered when seeking to improve retention of poll workers. Judges and Majority and Minority Inspectors are not able to work split day shifts like Clerks and Machine Inspectors. Consideration could be given to amending the law to permit Judges and Majority and Minority Inspectors to serve (if desired) split day shifts. If such an amendment was to be enacted, the Commonwealth may have to also amend the law to make these appointed positions, rather than elected positions. Keeping these as elected positions and permitting them to serve split day shifts would likely not be practical.

Unintended consequences to such an amendment should also be considered. Permitting every member of a district election board to work a split day shift on Election Day could lead to increased fraud vulnerability. For example, a voter may decide to come back later in the day to repeat previously rejected attempts earlier in the day by the other split shift official. Essentially, fraud may be easier to commit if a voter can try to come in twice with a new election official each time. In addition, permitting split day shift for all poll workers could end up requiring districts to need even more workers to work less hours. Accountability may also be negatively impacted as to which official is responsible if there are two Judges of Elections splitting a shift and an error is committed.

Prohibition on Government Employees Serving as Election Officials

Another option to improve recruitment and retainage of poll workers would be to repeal the Pennsylvania state constitutional provision prohibiting government employees (local, state, and federal) from being eligible. Counties often turn down municipal employees who are willing to help at polls. Permitting them to serve as poll workers could help mitigate staff shortages. If this provision was repealed, safeguards would still have to be established to prevent conflicts of interest among government employees.

Safety of Election Workers

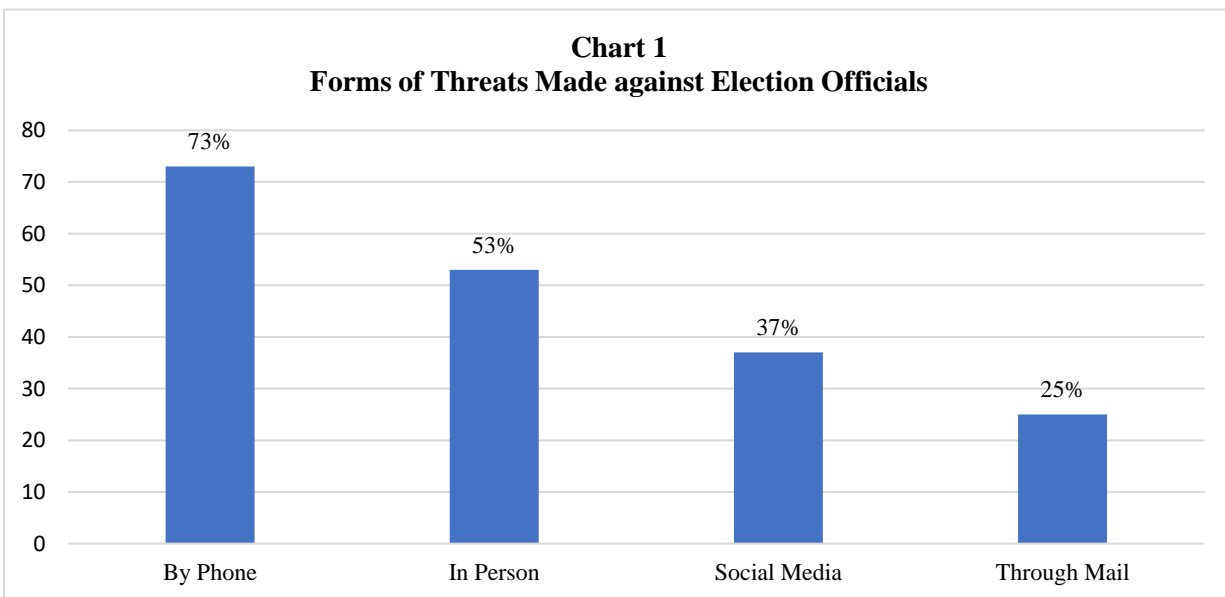
Act 77 and the pandemic contributed to a level of hostility toward poll workers, usually because of misunderstandings about certain voting procedures. Confusion over mail-in ballots, where voters brought mail-in ballots to the polling place led to tense interactions with polling staff, making some poll workers think twice about serving.

In recent years, increasing numbers of election workers have been expressing concerns about threats, harassment, and intimidation against them on Election Day and the days leading up to it. The Brennan Center for Justice at New York University conducted a recent study in March

of 2022¹¹³ where it surveyed local election officials about their concerns of working in future elections.

The survey found that three out of every five survey respondents were either “very concerned” or “somewhat concerned” that threats, harassment, and intimidation will make the retainage and recruitment of election workers in future elections even more challenging than they already are. Almost one in three election officials admitted to knowing at least one election worker who has left their position in part because of concerns for their safety, increased threats, or intimidation. These concerns are not unwarranted as one in six officials has experienced threats while performing his or her election duties. More than half of these threats have gone unreported to law enforcement.¹¹⁴

The threats, harassment, and intimidation come in different forms. Election officials have expressed fear that they will be harassed over the phone or voicemail, verbally harassed on Election Day, harassed over social media, and their family, or loved ones will be threatened or harassed. Officials are even afraid of being assaulted on the job. Of the 17 percent of survey respondents who have experienced threats in relation to their service, 73 percent stated they were threatened over the phone, while 53 percent indicated they were threatened directly in person. Threats through social media occurred for 37 percent of respondents, while 25 percent of respondents experienced them by mail. See Chart 1.¹¹⁵



Source: Brennan Center for Justice, “Threats, Harassment, and Intimidation: Local Election Official Survey,” New York University, Benenson Strategy Group (March 2022), <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>, last accessed on March 29, 2022.

¹¹³ Brennan Center for Justice, “Threats, Harassment, and Intimidation: Local Election Official Survey,” New York University, Benenson Strategy Group (March 2022), <https://www.brennancenter.org/our-work/research-reports/local-election-officials-survey-march-2022>, last accessed on March 29, 2022.

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

Of the eight percent of local election officials who directly reported the threats, 89 percent reported the incidents to local law enforcement, 22 percent reported the incidents to federal law enforcement, and 22 percent reported their incidents to state law enforcement.¹¹⁶

The previous two national elections proved to be close and contentious, polarizing a significant portion of the country. This may be one reason behind the increase in concern among officials. However, many local election officials believe that social media has played a significant role in the increase in threats against themselves and their colleagues. The study found that two in three local election officials blame the spreading of false information spread through social media.¹¹⁷

In addition, the study also found that nearly three times as many local election officials across the U.S. are very worried about interference by political leaders in how they and fellow election colleagues perform their jobs as they say they were prior to 2020. Consequently, one in five local election officials are “very” or “somewhat unlikely” to continue serving as an election official through 2024.¹¹⁸

Officials have considered what is needed to help eliminate or at the very least, mitigate their safety concerns. One in three election workers believe their local government could offer greater support. However, three in four local election workers believe the federal government should be doing more to support them.¹¹⁹

In 2021, the Department of Justice (DOJ) launched a task force aimed at the rise in threats against election workers, administrators, officials, and other individuals and professionals involved in the election process. The task force seeks to identify threats against election workers and vigorously prosecute offenders to safeguard the election process and the rights of voters. To fulfill its intended purpose, the task force receives and assesses allegations and reports of threats against election workers and partners with and supports U.S. Attorney’s Offices and FBI field offices throughout the country to investigate and prosecute all offenses where appropriate. The task force itself includes several entities within the DOJ, including the Criminal, Civil Rights, and National Security Divisions, and the FBI. The DOJ task force offers a hotline at 1-800-CALL-FBI (225-5324) in which individuals can contact the FBI to report suspected threats or violent acts. Complaints submitted through the hotline are reviewed by the task force and referred for investigation or other appropriate response.¹²⁰

When asked about the task force’s role in addressing their concerns, 42 percent of responding election workers stated they were not even aware the task force existed. Another 48 percent stated they were aware of the task force but knew very little about it. Only nine percent claimed to be very familiar with the task force and its purpose. When informed, 57 percent of

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ U.S. Department of Justice, “Justice Department Launches Task Force to Combat Threats Against Election Workers,” (July 29, 2021), <https://www.justice.gov/opa/blog/justice-department-launches-task-force-combat-threats-against-election-workers-0>, last accessed on March 30, 2022.

respondents stated that they believe the task force will have a positive effect on addressing their concerns.¹²¹

The Brennan Center's study also found that three in four local election workers believe that social media companies need to do more to curtail the spreading of false information. Some believe however, that encouraging social media companies to determine what is truth and what is false could lead to a slippery slope where truth simply becomes a reflection of the opinions and biases of those companies.¹²² Given the current challenges of recruiting and retaining local election workers that already exist, safety concerns must be addressed if jurisdictions want to ensure they have adequate help to administer elections.

Compensation

Increasing minimum and maximum pay for poll workers has been proposed in legislation and has been a topic of discussion regarding recruitment and retention. Increasing poll worker pay should be considered; however, counties may not want to fund the increases, as many counties' financial coffers are already strained. Moreover, most individuals willing to serve as poll workers do so primarily because they are civically minded individuals who tend to care a great deal about free and fair elections. These same individuals generally do not help for the nominal compensation they receive, and as such, increased compensation may not have a significant impact.

Currently, under Section 412.2 of the Election Code of 1937, a compensation range of \$75 to \$200 per diem is established for election officials and poll workers. Different per diem amounts can be established within the minimum and maximum ranges based on the number of votes cast. Additional compensation can be provided for all officials and workers for participating in election training. Judges of elections may receive further additional compensation for picking up and returning election materials. Judges of elections may also receive an additional amount of \$20 for transmitting returns of elections and ballot boxes. If the county requires the minority inspector to accompany the judge in transmitting returns and ballot boxes, he or she is also entitled to an additional \$20. The individual providing transportation for this purpose is also entitled to mileage reimbursement. Staff compiled information found on per diem rates in each county, to the extent they were available on county election bureau websites.

¹²¹ *Supra*, n. 1.

¹²² *Ibid.*

Table 3
Compensation of Election Officials and Poll Worker,
By Pennsylvania County
May 2022

County	Judge of Elections	Majority Inspector	Minority Inspector	Clerk	Machine Inspector
Adams	\$120	\$120	\$120	\$120	--
Allegheny	\$150-175	\$150-175	\$150-175	\$150-175	--
Armstrong	\$115-125	\$115-125	\$115-125	\$115-125	--
Beaver	\$100-200	\$100-200	\$100-200	\$100-200	--
Bedford	\$75-200	\$75-200	\$75-200	\$75-200	--
Berks	\$200	\$180	\$180	\$180	\$180
Blair	\$150	\$125	\$125	\$125	--
Bradford	\$95-110	\$95-110	\$95-110	\$95-110	--
Bucks	--	--	--	\$195	\$195
Butler	\$185-200	\$185-200	\$185-200	\$185-200	--
Cambria	\$120	\$120	\$120	\$120	--
Cameron	--	--	--	--	--
Carbon	\$190	\$155	\$155	\$155	\$155
Centre	\$110-200	\$110-200	\$110-200	\$110-200	--
Chester	\$135	\$125	\$125	\$125	\$125
Clarion	\$98-\$150	\$98-\$150	\$98-\$150	\$98-\$150	--
Clearfield	\$115	\$115	\$115	\$105	--
Clinton	\$145	\$145	\$145	\$145	--
Columbia	\$140-200	\$140-200	\$140-200	\$140-200	--
Crawford	\$91	\$85	\$85	\$85	--
Cumberland	\$160	\$140	\$140	\$130	\$140
Dauphin	\$170	\$140	\$140	\$130	\$130
Delaware	\$150	\$140	\$140	\$140	\$140
Elk ¹²³	\$95-123.50	\$95-123.50	\$95-123.50	\$95-123.50	--

¹²³ Some election workers receive \$7.90 per hours, up to \$95.

Table 3
Compensation of Election Officials and Poll Worker,
By Pennsylvania County
May 2022

County	Judge of Elections	Majority Inspector	Minority Inspector	Clerk	Machine Inspector
Erie ¹²⁴	\$190	\$190	\$190	\$190	\$190
Fayette ¹²⁵	--	--	--	\$130	--
Forest	\$100-160	\$100-160	\$100-160	\$100-160	--
Franklin ¹²⁶	\$90-120	\$90-120	\$90-120	\$90-120	--
Fulton ¹²⁷	\$115-200	\$115-200	\$115-200	\$115-200	--
Greene ¹²⁸	\$115-120	\$115-120	\$115-120	\$115-120	--
Huntingdon	\$70-220	\$70-220	\$70-220	\$70-220	--
Indiana	\$130-150	\$130-150	\$130-150	\$130-150	--
Jefferson	\$85-125	\$85-125	\$85-125	\$85-125	--
Juniata	\$75-200	\$75-200	\$75-200	\$75-200	--
Lackawanna	\$130-145	\$130-145	\$130-145	\$130-145	\$130-145
Lancaster ¹²⁹	\$160	\$110	\$110	\$100	\$100
Lawrence	\$105	\$75	\$95	\$70	--
Lebanon	\$100-120	\$100-120	\$100-120	\$100-120	--
Lehigh ¹³⁰	\$180	\$165	\$165	\$165	--
Luzerne	\$195-250	\$195-250	\$195-250	\$195-250	--
Lycoming ¹³¹	\$120	\$120	\$120	\$120	\$120
McKean	\$150-185	\$150-185	\$150-185	\$150-185	--

¹²⁴ Per diems are paid for early voting days as well, at the rate of \$120 per early voting weekday, and \$90 early voting weekends. Compensation for attending training is set at \$25, higher than the state mandated \$20.

¹²⁵ Fayette County has the positions of “poll manager,” whose per diem rate is \$210, and “assistant poll manager,” at \$160 per day. Training reimbursement is higher than the state mandate at \$30 per person.

¹²⁶ Per diem specifically based on voter turnout.

¹²⁷ Training reimbursement set at \$5 plus mileage.

¹²⁸ Per diem is set at \$115 per day unless turnout is more than 300 voters at the precinct, in which case the rate increases to \$120.

¹²⁹ Training reimbursement rate is set at \$10.

¹³⁰ Rate for picking up and returning election supplies paid to judge of elections is \$30, \$10 higher than the state mandate. Per diem set for interpreters at \$165.

¹³¹ Per diem set for interpreters at \$120.

Table 3
Compensation of Election Officials and Poll Worker,
By Pennsylvania County
May 2022

County	Judge of Elections	Majority Inspector	Minority Inspector	Clerk	Machine Inspector
Mercer ¹³²	\$100	\$100	\$100	\$100	--
Mifflin ¹³³	\$75-\$00	\$75-200	\$75-200	\$75-200	--
Monroe	\$125-150	\$125-150	\$125-150	\$125-150	--
Montgomery ¹³⁴	\$300	\$225	\$225	\$225	\$225
Montour	\$155-190	\$155-190	\$155-190	\$155-190	--
Northampton ¹³⁵	\$200	\$175	\$175	\$175	\$175
Northumberland	\$117-137	\$117-137	\$117-137	\$117-137	--
Perry	\$75-200	\$75-200	\$75-200	\$75-200	--
Philadelphia ¹³⁶	\$120	--	--	--	\$115
Pike	--	--	--	--	--
Potter	\$75-200	\$75-200	\$75-200	\$75-200	--
Schuylkill ¹³⁷	\$110-130	\$110-130	\$110-130	\$110-130	--
Snyder	\$95-160	\$95-160	\$95-160	\$95-160	--
Somerset ¹³⁸	\$95	\$95	\$95	\$95	--
Sullivan	\$90-120	\$90-120	\$90-120	\$90-120	--
Susquehanna	\$90-\$170	\$90-\$170	\$90-\$170	\$90-\$170	--
Tioga	\$130-140	\$130-140	\$130-140	\$130-140	--
Union ¹³⁹	\$120-125	\$120-125	\$120-125	\$120-125	--
Venango	\$100	\$80	\$80	\$70	--
Warren	\$75-200	\$75-200	\$75-200	\$75-200	--
Washington	\$150	\$130	\$130	\$130	\$130

¹³² Training reimbursement set at \$30.

¹³³ Training reimbursement set at \$5.

¹³⁴ Per diem amounts include working election day, training, and returning election materials.

¹³⁵ Training reimbursement set at \$50.

¹³⁶ Training reimbursement set at \$30.

¹³⁷ Training reimbursement set at \$10.

¹³⁸ Higher voter turnouts increase per diem.

¹³⁹ Training reimbursement set at \$10.

Table 3
Compensation of Election Officials and Poll Worker,
By Pennsylvania County
May 2022

County	Judge of Elections	Majority Inspector	Minority Inspector	Clerk	Machine Inspector
Wayne	\$155-180	\$155-180	\$155-180	\$155-180	--
Westmoreland	\$175-235	\$175-235	\$175-235	\$175-235	--
Wyoming	\$105-155	\$105-155	\$105-155	\$105-155	--
York ¹⁴⁰	\$175	\$150	\$150	\$150	\$150

Sources:

- Allegheny County, “Allegheny County Election Resources: Poll Workers,” <https://www.alleghenycounty.us/elections/poll-workers.aspx>, last accessed May 6, 2022.
- Armstrong County, “Poll Workers Corner,” <https://co.armstrong.pa.us/index.php/departments-m/elections-voters-registration-m/pollworkers-crtrorner-m>, last accessed May 6, 2022.
- Beaver County, Pennsylvania, “Be a Poll Worker,” <http://www.beavercountypa.gov/Depts/Elections/Pages/PollWorker.aspx>, last accessed May 6, 2022.
- Karen Shuey, “Berks Election Officials Increase Pay for Poll Worker Training,” *Reading Eagle*, (Mar. 17, 2022), <https://www.readingeagle.com/2022/03/17/berks-county-pay-poll-worker-training/>, last accessed May 6, 2022.
- Berks County, “Poll Worker Information,” <https://www.co.berks.pa.us/Dept/Elections/Pages/Pollworkers%20Needed.aspx>, last accessed May 6, 2022.
- Stephens, “Blair Election Workers get Pay Raise,” *Altoona Mirror* (Apr. 26, 2022), <https://www.altoonamirror.com/news/local-news/2022/04/blair-election-workers-get-pay-raise/>, last accessed May 6, 2022.
- Bucks County Elections, “Information and FAQs,” <https://www.buckscounty.gov/1436/Information-FAQs>, last accessed May 6, 2022.
- Butler County, PA, “Poll Workers,” <https://www.butlercountypa.gov/176/Poll-Workers>, last accessed on May 6, 2022.
- Cambria County, PA “Be a Champion of Democracy: Become a Poll Worker in Cambria County,” [file:///C:/Users/skramer/Downloads/POLL-WORKER-INFORMATION-AND-APPLICATION-01082019160015%20\(1\).pdf](file:///C:/Users/skramer/Downloads/POLL-WORKER-INFORMATION-AND-APPLICATION-01082019160015%20(1).pdf), last accessed May 6, 2022.
- Kelly Monitz, “Carbon County Poll Workers Get Raise,” *Standard-Speaker*, (Apr. 15, 2021), <https://news.yahoo.com/carbon-county-poll-workers-raise-051800727.html>, last accessed May 9, 2022.
- Chester County, Pennsylvania, “Are Poll Workers Paid?” <https://www.chesco.org/Faq.aspx?QID=768>, last accessed May 6, 2022.

¹⁴⁰ Training reimbursement set at \$25. Per diem rate for students is \$50.

- Clearfield County, PA, “Poll Worker Recruitment Flyer,” <http://www.clearfieldco.org/wp-content/uploads/2019/04/Poll-Worker-Recruitment-flyer.pdf>, last accessed May 6, 2022.
- “Clinton County Seeks May Primary Poll Workers,” The Record ONLINE, (Apr. 16, 2021), <http://therecord-online.com/site/archives/68439>, last accessed May 6, 2022.
- Keith Gust, “Crawford County Poll Workers will get a \$5 Pay Increase on Election Day,” The Meadville Tribune, (Sept. 10, 2020), https://www.meadvilletribune.com/news/crawford-county-poll-workers-will-get-a-5-pay-increase-on-election-day/article_6bf9b634-f2e9-11ea-8170-e3a7496f14f9.html, last accessed May 6, 2022.
- Cumberland County Board of Election Meeting Minutes, March 7, 2022, <https://www.ccpa.net/DocumentCenter/View/40887/03-07-2022---Board-of-Elections-Minutes?bidId=>, last accessed May 6, 2022.
- Dauphin County, “How to Become an Election Worker,” https://www.dauphincounty.org/document_center/electionsvoterregister/Election%20Worker.pdf, last accessed May 6, 2022.
- Delaware County, Pennsylvania, “Poll Worker Resources,” <https://delcopa.gov/vote/pollworkerresources.html>, last accessed May 6, 2022.
- Erie Board of Elections, “Become an Election Worker (Poll Worker),” <https://www.elections.erie.gov/ElectionWorker?AspxAutoDetectCookieSupport=1>, last accessed May 6, 2022.
- Fayette County, “Elections Poll Worker Information,” <https://fayettecountypa.gov/elections/poll-worker-info>, last accessed May 6, 2022.
- Franklin County, PA, “Poll Worker Information,” <https://franklincountypa.gov/ckeditorfiles/files/Voters/voters-PollworkerInformation.pdf>, last accessed May 6, 2022.
- County of Lancaster, Pennsylvania Poll Worker Fact Sheet, <https://www.co.lancaster.pa.us/DocumentCenter/View/5227/Poll-Worker-Fact-Sheet?bidId=>, last accessed May 9, 2022.
- Lawrence County, “Working as a Poll Worker,” https://lawrencecountypa.gov/departments/voter-registration-and-elections-lawrence_county/working-as-a-polling-official/, last accessed May 9, 2022; Lehigh County, PA Poll Worker Procedure Manual, (Jan. 2022).
- https://www.lehighcounty.org/Portals/0/PDF/Voter/Manual_Revisions_01_18_22.pdf?ver=OFDjAd1c1sjCUNBkhmpsxQ%3d%3d, last accessed May 9, 2022.
- Luzerne County, Pennsylvania, “Election Day Poll Workers,” <https://www.luzernecounty.org/1093/Election-Day-Poll-Workers>, last accessed May 9, 2022.
- Lycoming County Government, “Poll Workers Wanted,” <https://www.lyco.org/Departments/Voter-Services/Interested-in-Working-the-Polls>, last accessed May 9, 2022.
- Mercer County, PA, “Serving your Community as a Poll Worker,” (2022), <https://www.mcc.co.mercer.pa.us/election/ElectionGuides/2022.Why.Be.a.poll.worker.pdf>, last accessed May 9, 2022.
- Rachel Ravina, “Montgomery County Oks pay raises for Poll Workers,” *The Reporter*, (Apr. 16, 2021), <https://www.thereporteronline.com/2021/04/16/montgomery-county-oks-pay-raises-for-poll-workers/>, last accessed May 9, 2022.

- Northampton County, Pennsylvania, “Elections – Poll Workers,”
<https://www.northamptoncounty.org/CTYADMN/ELECTNS/Pages/PollWorkers.aspx>, last accessed May 9, 2022.
- Office of the Philadelphia City Commissioners, “Become a Poll Worker,”
<https://pollworker.philadelphiavotes.com/>, last accessed May 9, 2022.
- Venango County, Pennsylvania, “Are Election Workers Paid?” <https://co.venango.pa.us/Faq.aspx?QID=98>, last accessed May 9, 2022.
- Washington County, Pennsylvania, “Washington County Board of Elections,”
<https://www.co.washington.pa.us/DocumentCenter/View/10477/Poll-Worker-Description>, last accessed May 9, 2022.
- Westmoreland County, Pennsylvania, “Poll Workers,” <https://www.co.westmoreland.pa.us/1241/Poll-Workers>, last accessed May 9, 2022.
- County of York, Elections and Voter Registration Office Poll Worker Manual,” (Apr. 13, 2022), p. 14,
https://yorkcountypa.gov/images/pdf/election/2022_Primary/Poll%20Worker%20Manual%20PRI%202022.pdf, last accessed May 9, 2022.
- No information was found for Cameron and Pike Counties.
- Information on counties not otherwise identified was found on the Work Elections website at <https://workelections.org>.

CURRENT ELECTION LAW LEGISLATIVE PROPOSALS IN PENNSYLVANIA

As of May 6, 2022, at least 149 bills have been introduced in the General Assembly to amend the Election Law and related statutes. Of those bills, 108 have been introduced in the House of Representatives and 41 introduced in the Senate. Topics covered include absentee ballots, ballots in general, ballot questions, candidate qualifications, campaign finance, drop boxes, early voting, election audits, election fraud or misconduct, electronic poll books, judicial elections, mail-ballots, open primaries, polling place security, poll watchers, pre-canvassing, presidential elections, ranked-choice voting, voter access to polls, voter identification, voter list maintenance, voter registration, voting age, voting equipment, voting rights of felons, and general election law reform embracing many topics.

The following table provides a brief summary of each bill and its status as of May 6.

Election Law Legislation before the Pennsylvania General Assembly January 1, 2021 to June 17, 2022			
Bill	Topic	Description	Status
HB 18, PN 11	Voter access to polls	Declares the first Tuesday after the first Monday in November as Election Day and makes it a legal holiday	House State Government Committee January 11, 2021
HB 24, PN 12	Voter list maintenance	Calls for an audit of the voter registration database and upon completion, the purging of the records of all deceased and inactive electors	House State Government Committee January 11, 2021
HB 25, PN 13	Mail-in ballots	Repeals mail-in ballots	House State Government Committee January 11, 2021
HB 28, PN 1658	Election fraud or misconduct	Provides immunity for persons who report election misconduct and provides a \$5,000 reward if information leads to arrest and conviction	House State Government Committee June 3, 2021
HB 29, PN 1659	Ballots	Establishes standardize requirements for all paper ballots	House State Government Committee June 3, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 30, PN 1660	Mail-in ballots	Permits some individuals to be authorized to apply for a mail-in ballot on a voter's behalf; requires counties to maintain a management system to track all ballots sent	House State Government Committee June 3, 2021
HB 31, PN 1661	Drop boxes	Limits number and location of drop boxes, video surveillance and ability to time stamp when dropped off	House State Government Committee June 3, 2021
HB 32, PN 1870	Poll watchers	Authorizes poll watcher to be present during counting of mail-in ballots	House State Government Committee June 22, 2021
HB 33, PN 1871	Election fraud or misconduct	Provides that the Pa. Commission and Crime and Delinquency is to monitor election data, statistics and analytics for statistical anomalies, to be used to determine the need for further investigation and prosecution.	House State Government Committee June 22, 2021
HB 34, PN 1872	Ballots	Provides for security measures, including ballot box containment to prevent tampering with ballots in transit to county election board	House State Government Committee June 22, 2021
HB 143, PN 109	Voter list maintenance	Requires monthly cross-reference of SURE database with death record information provided by local registrars; registration updates for voters who move residence	House State Government Committee January 31, 2021
HB 174, PN 141	Candidates and campaigns	Prohibits public employees from using sick leave to engage in campaign activities	House State Government Committee January 14, 2021
HB 195, PN 1189	Mail-in ballots	Repeals mail-in ballots	House State Government Committee April 7, 2021
HB 205, PN 171	Voter registration	Provides for automatic registration of qualified electors based on personal information collected from PennDOT, DHS, and DMVA. Registered person to receive notice of registration, opportunity to decline, and ability to select a political party	House State Government Committee January 22, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 215, PN 181	Voter registration	Allows for same day voter registration, i.e., registering to vote at the polling place on election day and voting	House State Government Committee January 22, 2021
HB 263, PN 234	Judicial elections	Proposed a constitutional amendment the was Pennsylvania Supreme and Superior Court justices are elected	House Judiciary Committee January 26, 2021
HB 270 PN 2578	Presidential elections	Provides for PA to join the Agreement Among the States to Elect the President by National Popular Vote	House State Government Committee January 7, 2022
HB 316, PN 290	Early voting	Requires counties to provide beginning 15 days prior to the date of the primary or election	House State Government Committee January 28, 2021
HB 317, PN 291	Voter access to polls	Increases from 10 feet to 35 feet the zone around polling places where electioneering can take place	House State Government Committee January 28, 2021
HB 366, PN 338	Early voting; Pre-canvassing	Requires early voting to begin 30 days prior to primary or election; allows pre-canvassing 14 days prior	House State Government Committee February 3, 2021
HB 367, PN 339	Campaigns and candidates	Sets the minimum number of signatures needed on nominations for candidates for public or party office in cities of the third class as 10	House Local Government Committee February 3, 2021
HB 462, PN 423	Voter list maintenance	Requires local registrar or state registrar of Vital Statistics to report death of voter to county within two days of receipt of notice	House State Government Committee February 9, 2021
HB 470, PN 433	Mail-in ballots; pre-canvassing	Multiple amendments to mail-in ballot procedures, including pre-canvassing, drop boxes, application deadlines, secrecy envelopes, etc.	House State Government Committee February 9, 2021
HB 502, PN 464	Campaigns and candidates	Adds credit card charges and staff reimbursements to campaign finance disclosure forms	House State Government Committee February 10, 2021
HB 621, PN 583	Absentee ballots	Provides for absentee ballots printed in braille	House State Government Committee February 24, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 623, PN 585	Voter registration	Future Voters Act. Allows 16- and 17-year-olds to pre-register to vote	House State Government Committee February 24, 2021
HB 650, PN 606	Campaigns and candidates	Adds local election campaign finance reports to statewide disclosure reports by DOS	House State Government Committee February 24, 2021
HB 666, PN 628	Campaigns and candidates	Requires a currently serving public official to resign before running for another office (not applicable to US Pres/VP)	House State Government Committee February 26, 2021
HB 706, PN 2177	Voting rights of felons	Clarifies residence of incarcerated persons for redistricting purposes	First consideration September 27, 2021; laid on table December 13, 2021
HB 711, PN 631	Campaigns and candidates	Allows electronic filing of campaign finance reports	First consideration September 27, 2021, laid on table December 13, 2021
HB 737, PN 722	Polling place security	Prohibits possession of a firearm at a polling place (exception for law enforcement)	House Judiciary Committee March 3, 2021
HB 808, PN 792	Mail-in ballots	Allows ballots postmarked on or before election day to be counted if received by 8 pm on the 6 th day following the election	House State Government Committee March 8, 2021
HB 851, PN 835	Candidates and campaigns	Requires background checks for candidates to school district offices	House State Government Committee March 10, 2021
HB 852, PN 836	Candidates and campaigns	Requires reporting of expected large political or campaign donations by nonprofit organizations	House State Government Committee March 10, 2021
HB853, PN 837	Voter ID	Requires voter ID to vote in person	House State Government Committee March 10, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 892, PN 883	Voter access to polls	Requires employers to give employees up to two hours absence from work, with loss of pay, leave, or other benefits to vote in person; window limited to beginning or end of the employee's work shift	House Labor and Industry Committee March 15, 2021
HB 893, PN 884	Voter access to polls	Provides for assisted voting procedures for persons who are physically unable to enter the voting booth by reason of blindness, disease or other disability	House State Government Committee March 15, 2021
HB 894, PN 990	Candidates and campaigns; primaries	Provides procedure for verification of irregular ballots (write-in) ballots and requires a write-in candidate to receive as many votes as are required for the nomination petition for the office to be counted; all registered electors may vote at primaries	House State Government Committee March 15, 2021
HB 895, PN 886	Mail-in ballots	Repeals mail-in ballot application process and provides for automatic mailing of mail-in ballots to each qualified voter 60 days before the election	House State Government Committee March 15, 2021
HB 905, PN 892	Candidates and campaigns	Requires mandatory disclosure of federal income tax returns by candidates for President and Governor	House State Government Committee March 15, 2021
HB 982, PN 994	Pre-canvassing	Extends the pre-canvassing period from 12 to 3 days prior to the election depending on the class of the county	House State Government Committee March 19, 2021
HB 1053, PN 1087	Voter registration	Authorizes same day/election day voter registration	House State Government Committee March 31, 2021
HB 1111, PN 1373	Candidates and campaigns	Amends the civil service law to allow civil service employees to run for public office	House State Government Committee April 27, 2021
HB 1118, PN 1167	Ballot questions	Requiring fiscal notes for ballot questions involving debt or expenditures	First consideration September 27, 2021; laid on table December 13, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 1195, PN 1256	Voter registration	Statutorily authorized electronic voter registration	House State Government Committee April 16, 2021
HB 1197, PN 1258	Election audits	DOS audits within 90 days of each election; within 180 days of all general elections, verify voting records with neighboring states	House State Government Committee April 16, 2021
HB 1266, PN 1346	Absentee ballots; mail-in ballots	Provides that ballots postmarked on or before election day that are received within three days after the election can be counted	House State Government Committee April 23, 2021
HB 1270, PN 1350	Mail-in ballots	Prohibits third-party organizations from sending mail-in or absentee ballot applications to voters	House State Government Committee April 23, 2021
HB 1272, PN 1352	Candidates and campaigns	Limits the amount of campaign contributions that can be received, including in-kind contributions	House State Government Committee April 23, 2021
HB 1300, PN 1760	Election law reform	Omnibus amendments	Passed House (110-91) June 22, 2021; Passed Senate ((29-21) June 25, 2021 Veto #1 by Governor June 30, 2021
HB 1333, PN 1431	Ballots	Removes the designation of county of residence of candidates who are seeking multi-county positions	House State Government Committee May 5, 2021
HB 1334, PN 1432	Voter ID	Requires all persons seeking to register to vote to provide proof of US citizenship	House State Government Committee May 5, 2021
HB 1336, PN 1439	Voting rights of felons	Requires notification of voting rights to inmates upon release from confinement in penal institution	House State Government Committee May 5, 2021
HB 1337, PN 1434	Voting rights of felons	Requires DOS to maintain an electronic database of information on the voting habits of formerly incarcerated person	House State Government Committee May 5, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HR 97, PN 1438	Voting rights of felons	Directs the Joint State Government Commission to conduct a study on the voting habits of formerly incarcerated persons	House State Government Committee May 5, 2021
HB 1369, PN 1486	Primaries	Authorizes registered independents to vote in primary elections	House State Government Committee May 10, 2021
HB 1376, PN 1487	Voter access to polls	Authorizes curbside voting by a qualified elector who has a physical, emotional, intellectual or developmental disability	House State Government Committee May 10, 2021
HB 1423, PN 1530	Candidates and campaigns	Provides for drug screening of candidates	House State Government Committee May 14, 2021
HB 1424, PN 1531	Voting rights of felons	Clarifies residence of incarcerated persons for redistricting purposes	House State Government Committee May 14, 2021
HB 1425, PN 1532	Candidates and campaigns	Waives nomination petition and affidavit requirements for incumbents running for re-election or person who were defeated for the same office in the immediately preceding election cycle. Exception for redistricting years	House State Government Committee March 15, 2021
HB 1476, PN 1593	Election audits	Requires voting system performance audits of each county election results	House State Government Committee May 21, 2021
HB 1477, PN 1594	Election audits	Provides for county voting system audits	House State Government Committee May 21, 2021
HB 1482, PN 1601	Election audits	Appropriation to the Auditor General to conduct election audits	House State Government Committee May 25, 2021; first consideration November 8, 2021; laid and removed from table June 15, 2022

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 1498, PN 1636	Mail-in ballots	Repeals the provision that allows a person who received a mail-in ballot to turn it in for destruction and vote in person on election; provides that judges of election can accept personal delivery of mail-in ballots at the polling place	House State Government Committee June 1, 2021
HB 1499, PN 1637	Absentee ballots; mail-in ballots	Specifically authorizes signature verification of absentee and mail-in ballots and grants authority to reject ballots if signatures do not match	House State Government Committee June 1, 2021
HB 1501, PN 1638	Mail-in ballots	Requires each mail-in ballot to include a unique scannable identification code	House State Government Committee June 1, 2021
HB 1502, PN 1639	Absentee ballots; mail-in ballots	Provides that ballots received after 8 PM on election day are void; provides that no declared disaster emergency, executive order or court order may waive that deadline	House State Government Committee June 1, 2021
HB 1519, PN 1646	Candidates and campaigns	Repeals fee for delegates and alternate delegates to attend national party conventions	House State Government Committee June 1, 2021
HB 1596, PN 2178	Voter ID; election audits	Joint Resolution to amend the Constitution to require voter ID to vote and provides for election audits	First consideration September 27, 2021; laid on and removed from table, April 12, 2022
HB 1614, PN 1788	Ballots	Amends the number of official election ballots to be provided at primary and general elections	Passed House (199-0) February 9, 2022; second consideration in Senate April 11, 2022; laid on the table and removed June 13, 2022
HB 1618, PN 1794	Pre-canvassing	Requires counties to meet at least once before election day to pre-canvass ballots all ballots received prior to the Friday before the election, at any time during the 7 days leading up to the election	House State Government Committee June 14, 2021
HB 1619, PN 1795	Pre-canvassing	Extends period to no more than 21 days before election day	House State Government Committee June 14, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 1620, PN 1796	Absentee ballots; mail-in ballots	Provides a process to “cure” defective absentee and mail-in ballots	House State Government Committee June 14, 2021
HB 1638, PN 1813	Poll watchers	Provides an exemption from state income tax for compensation received by poll workers for election-related duties	House Finance Committee June 15, 2021
HB 1663, PN 1858	Voting equipment	Requires all voting machines to be manufactured in the United States and sold by a vendor with a primary place of business in the US	First consideration January 10, 2022; laid on the table April 25, 2022
HB 1703, PN 1925	Election law reform	Omnibus amendments	House State Government Committee June 24, 2021
HB 1704, PN 1926	Pre-canvassing	Authorized to begin 14 days prior to election	House State Government Committee June 24, 2021
HB 1706, PN 1930	Absentee ballots; mail-in ballots; Pre-canvassing	Moves the deadline to apply for a ballot to 15 days prior to election day; extends pre-canvassing to 21 days before election day	House State Government Committee June 25, 2021
HB 1771, PN 2008	Candidates and campaigns	Requires State Police criminal history background check, child abuse background check and FBI background check for all candidates	House State Government Committee August 9, 2021
HB 1772, PN 2009	Ranked choice voting	Amends the Constitution to provide for ranked choice voting except for President and VP of the US, and justices of the PA Supreme, Superior, and Commonwealth Courts	House State Government Committee August 9, 2021
HB 1797, PN 2039	Ballots	Provides for random listing of candidates from polling place to polling place for primary elections	House State Government Committee August 18, 2021
HB 1800, PN 2431	Election law reform	Omnibus amendments	Second consideration November 17, 2021; re-reported from Approp. Cmte December 13, 2021; laid on and removed from table June 15, 2022

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 1838, PN 2083	Ballots	Provides for random listing of candidates from polling place to polling place for primary elections	House State Government Committee September 7, 2021
HB 1913, PN 2171	Election fraud and misconduct	Requires county boards of elections to maintain a publicly accessible Internet website using a .gov top-level domain (TLD), to prevent internet spoofing and misleading websites	House State Government Committee September 27, 2021
HB 1916, PN 2173	Poll workers	Establishes a list and process similar to that used to summon people for jury duty to recruit poll workers	House State Government Committee September 27, 2021
HB 1942, PN 2217	Candidates and campaigns	Requires disclosures relating to dissemination of “deepfake” videos in political ads (videos that have been manipulated)	House Judiciary Committee September 30, 2021
HB 1971, PN 2261	Election law reform	Omnibus amendments	House State Government Committee December 15, 2021
HB 2044, PN 2352	Candidates and campaigns	Requires DOS and county boards of elections to decline private donations or contributions to operate elections	Passed the House (113-90) December 14, 2021; first consideration in Senate April 11, 2022; laid on the table June 14, 2022
HB 2048, PN 2357	Candidates and campaigns	Prohibits most payroll deductions for political campaign contributions by public employers and employees	First consideration January 25, 2022; laid on table June 8, 2022
HB 2090, PN 2522	Election law reform	Omnibus amendments	House State Government Committee December 14, 2021
HB 2105, PN 2444	Campaigns and candidates	Requires cross-filed candidates for court of common pleas, Philadelphia Municipal Court, school board or magisterial district judge to be identified on primary ballot by party of registration	House State Government Committee November 23, 2021
HB 2163, PN 2583	Candidates and campaigns	Removes the restriction that poll watchers must reside in the county in which they are appointed	First consideration January 10, 2022; removed from and laid on the table April 25, 2022

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 2194, PN 2559	Ballot questions; mail-in ballots	Requires plain English statements of ballot questions to be mailed with mail-in ballots to voters	House State Government Committee December 22, 2021
HB 2217, PN 2585	Early voting	Authorizes early voting to begin 30 days prior to Election Day	House State Government Committee January 10, 2022
HB 2218, PN 2588	Primaries	Moves the date of the primary in presidential election years to the third Tuesday of March	House State Government Committee January 10, 2022
HB 2248, PN 2605	Absentee ballots; mail-in ballots	Allows voters to “cure” signature discrepancies	House State Government Committee January 14, 2022
HB 2249, PN 2606	Pre-canvassing	Authorizes pre-canvassing up to seven days before election day	House State Government Committee January 14, 2022
HB 2250, PN 2607	Pre-canvassing	Authorizes pre-canvassing up to 21 days before election day	House State Government Committee January 14, 2022
HB 2261, PN 2624	Ballot questions	Requires that ballot questions be submitted to voters only during a general election and only every two years when there is a presidential or gubernatorial election	House State Government Committee January 21, 2022
HB 2279, PN 2661	Candidates and campaigns	Requires candidates for Senator and Representative in the General Assembly to file pre-election financial reports	House State Government Committee January 26, 2022
HB 2312, PN 2690	Candidates and campaigns	Requires drug testing for candidates for state office	House State Government Committee January 31, 2022
HB 2335, PN 2729	Ballots	Randomized ballot positions for candidates	House State Government Committee February 9, 2022
HB 2433, PN 2855	Pre-canvassing	Eliminates all pre-canvassing and requires all voter counting to occur on election day	House State Government Committee March 17, 2022

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 2484, PN 2932	Candidates and campaigns	Requires financial disclosures by write-in candidates	House State Government Committee April 5, 2022
HB 2507, PN 3048	Voter list maintenance	Mandates counties use the Electronic Registration Information Center (ERIC) to remove dead voters from the rolls; authorizes use of information from state-licensed funeral homes, county coroner records, and death certificates to the list of permissible sources of information	Passed House (202-0) April 27, 2022; Senate State Government Committee April 28, 2022
HB 2539, PN 3022	Mail-in ballots	Constitutional amendment to prohibit use of mail-in ballots	House State Government Committee April 25, 2022
HB 2540, PN 3023	Election law reform	Omnibus amendments	House State Government Committee April 25, 2022
HB 2543, PN 3026	Ballot questions	Requires public meeting open for public comment in each legislative district prior to presentation to electors on ballot	House State Government Committee April 25, 2022
HB 2602, PN 3117	Absentee ballots; mail-in ballots	Permits a member of the same household to return or mail the completed ballot of another member of the household registered to vote at the residential address	House State Government Committee May 16, 2022
HB 2623, PN 3161	Electors	Requires presidential electors to vote for the person who received the highest number of votes (penalizing “faithless electors”)	House State Government Committee May 20, 2022
HB 2624, PN 3162	Candidates and campaigns	Financing of campaigns for legislative office	House State Government Committee May 25, 2022

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
HB 2625, PN 3167	Absentee ballots; mail-in ballots	Changes absentee ballot application deadline; allows pre-canvassing of absentee and mail-in ballots; provides for access of viewers and recording and publication of pre-canvassing; requires canvassing to start no later than 8 AM of the day after election day; provides for notice of opportunity to cure defective ballot; establishes procedures for early voting	House State Government Committee May 27, 2022
HB 2647, PN 3193	Election oversight	Establishes an election fraud hotline, provides for appointment of an independent prosecutor to investigate state and local responses to election complaints, and appoint local election integrity officers	House State Government Committee June 7, 2022
SB 22, PN 6	Judicial elections	Requires a public, televised confirmation hearing and a period for public comment for all persons nominated by the Governor to fill judicial vacancies	Senate Judiciary Committee January 20, 2021
SB 30, PN 12	Voting age	Lowers the voting age to 16	Senate State Government Committee January 20, 2021
SB 56, PN 33	Candidates and campaigns	Provides procedure for verification of irregular ballots (write-in) ballots and requires a write-in candidate to receive as many votes as are required for the nomination petition for the office to be counted	Second consideration September 27, 2021; re-referred to Senate Appropriations Committee September 27, 2021
SB 59, PN 36	Ranked choice voting	Permitted at November municipal elections	Senate State Government Committee January 20, 2021
SB 71, PN 53	Election fraud and misconduct	Requires DOS to provide a report on how complaints about the 2020 presidential election were handled	Senate State Government Committee January 20, 2021
SB 93, PN 164	Absentee ballots	Allows revocation of permanent status to be done electronically	Senate State Government Committee February 10, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
SB 104, PN 81	Voting rights of felons	Clarifies residence of incarcerated persons for redistricting purposes	Senate State Government Committee January 25, 2021
SB 128, PN 100	Absentee ballots; mail-in ballots	Changes Pennsylvania's voting method to all mail-in and absentee voting	Senate State Government Committee January 26, 2021
SB 140, PN 117	Candidates and campaigns	Requires filing of reports and statements electronically, establish a search statewide database in DOS; provides for disposition of unused campaign funds	Passed Senate (49-0) November 10, 2021; House State Government Committee November 12, 2021
SB 141, PN 118	Voter registration	Provides for automatic registration upon application for a driver's license, employment with a state agency, or program benefits through a state agency	Senate State Government Committee January 28, 2021
SB 198, PN 171	Voter registration	Provides for same day/election day voter registration	Senate State Government Committee February 10, 2021
SB 309, PN 319	Voter access to polls	Requires employers to give employees up to two hours absence from work to vote in person	Senate State Government Committee March 10, 2021
SB 322, PN 330	Absentee ballots; mail-in ballots	Procedures for watchers of vote counts of absentee and mail-in ballots; establishes a "cure" process for questions related to signature matching/voter ID	Senate State Government Committee March 10, 2021; second consideration January 26, 2022; laid on table June 14, 2022
SB 336, PN 297	Voter registration	Requires PennDOT to keep track of driver's license recipients who were ineligible due to age to register to vote at the time of obtaining their license, and to notify the person of their right to register and registration materials when the person turns 18 years of age	Senate State Government Committee March 3, 2021
SB 346, PN 369	Primaries	Allows independent or unaffiliated voters to vote at primary by declaring which party they wish to vote for	Senate State Government Committee March 10, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
SB 402, PN 387	Mail-in ballots	Repeal no excuse mail-in ballots	Senate State Government Committee March 11, 2021
SB 404, PN 395	Voter access to polls	Omnibus amendment to create Voter's Bill of Rights	Senate State Government Committee March 11, 2021
SB 422, PN 422	Voter ID	Required at all elections	Senate State Government Committee March 15, 2021
SB 428, PN 432	Primaries	Moves the date of the primary in presidential election years to the third Tuesday of March	Passed Senate (49-0) House State Government Committee December 15, 2021
SB 510, PN 536	Voter registration	Permits youth between the ages of 16 and 18 to pre-register to vote	Senate State Government Committee April 9, 2021
SB 515, PN 506	Mail-in ballots	Repeals permanent mailing list for mail- in ballots; restricts ability to send applications to voters from DOS or county election board only	Senate State Government Committee April 1, 2021
SB 528, PN 602	Election fraud and misconduct	Providing for a risk-eliminating audit by the Auditor General for the 2020 general election	Senate State Government Committee April 14, 2021
SB 573, PN 612	Candidates and campaigns	Number of, and protection of, poll watchers	Passed Senate (30-19) June 6, 2022; House State Government Committee June 8, 2022
SB 599, PN 673	Pre-canvassing	Extends the pre-canvassing period to 21 days before election day	Senate State Government Committee April 27, 2021
SB 640, PN 717	Election fraud and misconduct	Establishes election fraud reporting process in the Auditor General's office	Senate State Government Committee May 6, 2021
SB 690, PN 816	Primaries	Adopts open primaries	Senate State Government Committee May 28, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
SB 735, PN 952	Voter ID	Proposes a constitutional amendment to require voter ID at polls	Passed Senate (30-20) June 23, 2021, House State Government Committee June 24, 2021
SB 738, PN 867	Ballot questions	DOS to post on Internet information about ballot questions process and content	Passed Senate (43-6) September 27, 2021; first consideration in House November 8, 2021; laid on and removed from table June 15, 2022
SB 784, PN 922	Absentee ballots; mail-in ballots; Pre-canvassing	Moves the deadline to apply for a ballot to 15 days prior to election day; extends pre-canvassing to the Tuesday before election day	Senate State Government Committee June 21, 2021
SB 819, PN 1022	Election law reform	Replace the Secretary of the Commonwealth and the Department of State with a three-member non-partisan Election Commission with respect to non-constitutionally mandated election duties (amends Election Code of 1937)	Senate State Government Committee August 11, 2021
SB 821, PN 1024	Election law reform	Replace the Secretary of the Commonwealth and the Department of State with a three-member non-partisan Election Commission with respect to non-constitutionally mandated election duties (amends 25 Pa.C.S., Election Code)	Senate State Government Committee August 11, 2021
SB 862, PN 1062	Candidates and campaigns	Authorizes donation of residual campaign funds to nonprofit organizations unaffiliated with candidate, candidate's family or political committee chairman or treasurer	Second consideration September 29, 2021; laid on table May 24, 2022
SB 878, PN 1078	Election law reform	Omnibus amendments	Senate State Government Committee September 17, 2021
SB 886, PN 1114	Judicial elections	Prohibits cross-filing in primaries by magisterial district judges	Senate State Government Committee September 28, 2021

**Election Law Legislation
before the Pennsylvania General Assembly
January 1, 2021 to June 17, 2022**

Bill	Topic	Description	Status
SB 914, PN 1165	Mail-in ballots	Imposes a moratorium on the use of mail-in ballots until the primary election of 2023 or adoption of legislation to clear up problems related to mail-in ballots	Senate State Government Committee October 19, 2021
SB 966, PN 1254	Campaigns and candidates	Requires cross-filed candidates to be identified on primary ballot by party of registration and party for whom nomination is sought	Senate State Government Committee December 1, 2021
SB 982, PN 1264	Campaigns and candidates	Prohibits non-governmental funding of election expenses	Passed Senate (37-12); first consideration in House June 7, 2022; removed from table June 15, 2022
SB 1018, PN 1555	Voter list maintenance	Establishes the SURE System Advisory Board; establishes powers and duties of SURE system; expands permissible sources of information to assist in removal of dead voters' names from rolls, including information from state-licensed funeral homes, county coroner records, and death certificates	Senate State Government Committee First consideration, April 6, 2022; laid on and removed from table June 13, 2022
SB 1097, PN 1422	Voter list maintenance	Shortens the time period for Department of Health to notify counties of names of deceased voters from 60 days after receiving notice to seven days	Senate State Government Committee February 23, 2022
SB 1129, PN 1466	Candidates and campaigns	Prohibits automatic renewal of recurring campaign contributions without the express and affirmative agreement by the donor	Senate State Government Committee March 3, 2022
SB 1200, PN 1576	Absentee ballots; mail-in ballots	Requires counties to establish a primary office at the county seat for the county board of elections, which is the only location that absentee and mail-in ballots can be returned in person to an employee at the primary office	Passed Senate (29-20) April 13, 2022; House State Government Committee April 14, 2022
SB 1292, PN 1788	Political parties	Prohibits state political party officers from serving on county boards of elections	Senate State Government Committee June 15, 2022

ABSENTEE AND MAIL-IN BALLOTS

The work groups formed by the ELAB to provide research and possible legislative solutions to election law concerns spent considerable time discussing absentee and mail-in ballots. Given the current uncertainty of the constitutionality of mail-in ballots, the ELAB did not formally consider any proposed recommendations in this area. Upon resolution of this constitutional debate, staff will present a slate of recommendations on the topic of absentee and mail-in ballots to the ELAB for approval and inclusion in a supplemental report to this report, with the expectation that it could be released prior to the General Assembly's return to session days in September 2022. In the interim, the following list provides an idea of what issues were researched:

- authority to use mail-in ballots;
- methods of obtaining a mail-in ballot application;
- deadlines to request a ballot;
- “permanent” mailing lists;
- third-party mailings;
- ballot tracking;
- secrecy envelopes;
- requirement to date the ballot;
- pre-paid postage for ballots;
- drop boxes – security, accessibility, ballot collection from drop boxes; and
- ballot “harvesting”.

CURRENT FEDERAL ELECTION LAW

Legislative Proposals in Congress

During the 117th Congress, covering the years 2021-2022, at least 39 pieces of legislation have been introduced. Topics covered include voting rights, campaign finance, redistricting, and other election-related reforms. These bills are summarized below.

For the People Act of 2021

HR1 is currently pending before the 117th United States Congress. The bill was initially introduced before the U.S. House of Representatives on January 4, 2021, where 222 Democrats ultimately signed on as co-sponsors. No Republicans co-sponsored the bill. On March 2, 2021, HR1 was brought up for debate before the House. On March 3, 2021, the House voted 220-210 to adopt HR1, with all but one present Democratic Representative (Rep. Bennie Thompson, Miss.) voting in favor and no support from any Republican Representatives. The bill was received in the U.S. Senate on March 11, 2021, and as of May 11, 2022, the bill has yet to be taken up in the Senate and remains pending.¹⁴¹

The bill addresses several areas of the election process including election integrity and security, campaign finance, voter access, and ethics for the three branches of the federal government. In addition, the bill would federalize the election process by implementing nationwide mandates for the states to carry out in their election processes. For instance, the bill would require all states to universally implement early voting, automatic voter registration, no-fault absentee balloting for voters, and other requirements. A full analysis of HR 1 was included in the ELAB June 2021 Report.

S. 4 — The John R. Lewis Voting Rights Advancement Act

This bill would amend the 1965 Voting Rights Act to establish new criteria for determining which states and political subdivisions must obtain pre-clearance before implementing changes to their voting laws, practices, or procedures. The pre-clearance must be obtained from the Department of Justice or the U.S. District Court for the District of D.C.

Additionally, this bill would require states and political subdivisions that meet certain thresholds regarding minority groups to preclear covered practices before implementation, such as changes to methods of election and redistricting. A new formula for requiring pre-clearance of

¹⁴¹ Congress.Gov, “H.R. 1 – For the People Act of 2021,” <https://www.congress.gov/bill/117th-congress/house-bill/1/all-actions?overview=closed#tabs>, last accessed on May 25, 2021.

voting practice changes is also introduced, which is based on the number of “voting rights violations” in a period of years depending on whether the state committed any of the violations.

The bill also outlines factors courts must consider when hearing challenges to voting practices, such as the history of official voting discrimination in the state or political subdivision.

On November 3, 2021, a Motion by Senator Schumer to reconsider the vote by which cloture on the motion to proceed to S. 4 was not invoked. In other words, it failed to gain cloture and was effectively filibustered.

H.R. 4 — John R. Lewis Voting Rights Advancement Act of 2021

Although the provisions of each bill are not identical and would have needed to be reconciled, this bill is similar to and shares its title with S.4. This bill establishes new criteria for determining which states and political subdivisions must obtain preclearance before changes to voting practices may take effect. Preclearance is the process of receiving preapproval from the Department of Justice (DOJ) or the U.S. District Court for the District of Columbia before states or their political subdivisions are permitted to make changes to voting laws, practices, or procedures.

Specifically, the bill requires that a state and all of its political subdivisions shall be subject to the preclearance provisions for a 10-year period if there are 15 or more voting rights violations in the state in the past 25 years, 10 or more violations in the past 25 years if one of the violations was committed by the state itself, or 3 or more violations in the past 25 years if the state administers the elections. Political subdivisions shall also be subject to preclearance for a 10-year period if there are three or more voting rights violations in that jurisdiction occurring within the previous 25 years.

States and political subdivisions that meet certain thresholds regarding minority groups must preclear covered practices before implementation, such as changes to methods of election and redistricting. Further, states and political subdivisions must notify the public of changes to voting practices. Next, the bill authorizes DOJ to require states or political subdivisions to provide certain documents or answers to questions for enforcing voting rights. Additionally, the bill also outlines factors courts must consider when hearing challenges to voting practices, such as the extent of any history of official voting discrimination in the state or political subdivision.

This bill passed the House on August 24, 2021, on a 219-212 vote and was received in the Senate on September 14, 2021.

H.J. Res. 5 — Proposing an Amendment to the Constitution of the United States Protecting the Right of Citizens to Vote

This bill would amend the Constitution to grant all U.S. Citizens who are 18 years of age or older a right to vote unless they are serving a sentence for a felony in a correctional facility at

the time of an election. It was referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties on March 4, 2021.

H.J. Res. 23 — Proposing an Amendment to the Constitution of the United States Extending the Right to Vote to Citizens Sixteen Years of Age or Older

This bill would amend the Constitution to lower the voting age to 16. It was referred to the Subcommittee on the Constitution, Civil, Rights, and Civil Liberties on April 23, 2021.

H.R. 36 — To Repeal the National Voter Registration Act of 1993

This bill would repeal the National Voter Registration Act of 1993, eliminating the federal requirements relating to registering voters through the states' departments of motor vehicles.

This bill was referred to the Committee on House Administration on January 4, 2021.

H.R. 80 — John Tanner Fairness and Independence in Redistricting Act

This bill prohibits a state from redistricting its Congressional districts in the middle of the decade between two censuses if it has already engaged in redistricting based on the most recent census. Further, this bill requires redistricting to be conducted through a plan created by an independent state commission or the state's highest court. This bill also instructs states on the composition of the membership of the independent redistricting commissions.

The bill requires that the independent redistricting commissions plans follow certain criteria, including compliance with the Voting Rights Act and maintaining geographic continuity. The bill requires the commissions to solicit and take into consideration comments from the public in developing the redistricting plan. The bill further instructs the commissions to submit their plans for a vote by the state legislatures, which may not alter the plans and must vote to either approve or disapprove the plans.

The bill also instructs that if the redistricting plan developed by the independent redistricting commission is not enacted into law by November 1 of the year after the chief executive of the state receives the apportionment notice, the commission may submit the plan to the highest court of the state. The court may not modify the plan. If the redistricting plan is not adopted by December 1 of that year, the state must file a notice with the United States District Court for the District in which the state capital is located. The District Court will then develop and select a final redistricting plan for the state.

This bill was referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties on March 1, 2021.

H.R. 93 — Eliminating Foreign Intervention in Elections Act

This bill would prohibit federal funds from being used to make payments to local governments that permit noncitizens to vote in state or local elections.

It was referred to the Committee on Oversight and Reform on January 4, 2021.

H.R. 134 — Coretta Scott King Mid-Decade Redistricting Prohibition Act

This bill prohibits a state which has been redistricted after an apportionment from redistricting its Congressional districts again until after the next apportionment of Representatives, unless otherwise ordered by a court to comply with federal law or the Constitution. Stated more succinctly, a state cannot redistrict itself in the middle of the decade between two censuses.

This bill was referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties on March 1, 2021.

S. 481 — Democracy Restoration Act

This bill would prohibit states from denying the right to vote to a citizen in any Federal election on the basis that the individual has been convicted of a criminal offence unless the individual is serving a felony sentence in a correctional institution or facility at the time of the election.

This bill empowers the Attorney General to enforce this provision and provides a private right of action for any person aggrieved by a violation of this act.

This bill also requires that each State notify in writing any individual convicted of a criminal offense that they retain the right to vote pursuant to this act when they are either sentenced or released from custody.

This bill was referred to the Committee on the Judiciary on February 25, 2021.

H.R. 624 — Voter Information Hotline Act

This bill directs the Department of Justice to coordinate the establishment of a state-based response system for responding to questions and complaints from individuals related to registering to vote or voting in federal elections. Further, DOJ must establish and operate a toll-free telephone service through which individuals may connect directly to the state-based response system, obtain information on voting in federal elections, and report information to DOJ on problems encountered in registering to vote or voting, including incidences of voter intimidation or suppression.

This bill also establishes the voter hotline task force to provide ongoing analysis and assessment of the telephone hotline.

This bill was referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties on March 22, 2021.

H.R. 775 — Disability Voting Rights Act

This bill requires states to permit individuals with disabilities to use absentee registration procedures and to vote by absentee ballot in elections. States must establish procedures for individuals with disabilities to request by mail and electronically voter registration applications and absentee ballot applications and allow such individuals to decide whether they prefer their voter registration and absentee ballot application to be by mail or electronically. The bill requires the states to also establish procedures for transmitting by mail and electronically blank absentee ballots to individuals with disabilities. Effectively, the states must allow disabled persons to register to vote and request an absentee ballot online, as well as receive the absentee ballot via the Internet.

This bill expands and reauthorizes a grant program to ensure voting access for individuals with disabilities, specifically by adding a provision stating that one of the programs for which the grant can be awarded is to make “absentee voting and voting at home accessible to individuals with the full range of disabilities ... through the implementation of accessible absentee voting systems that work in conjunction with assistive technologies....”

This bill was referred to the Committee on House Administration on February 3, 2021.

S. 954 — Voter Empowerment Act

This is the Senate companion to H.R. 2358. It was referred to the Committee on Rules and Administration on March 24, 2021.

H.R. 966 — Save Voters Act

This bill imposes new conditions on states’ removing voters from their official list of registered voters. States must verify that the registrant is ineligible to vote in their elections and the failure of a registrant to vote in any election, respond to any notice sent under section 8(d) of the National Voter Registration Act of 1993, or take any other action with respect to voting in any election or their status as a registrant cannot be considered as evidence of ineligibility.

This bill further requires that when a state give notice to the registrant after they are removed from the official list of eligible voters. The bill requires that states post a public notice informing the public that voter list maintenance is taking place and that registrants should check their registration status to make sure no errors have been made.

This bill was referred to the committee on House Administration on February 11, 2021.

S. 992 — Help Students Vote Act

This bill amends the Higher Education Act of 1965 to require institution of higher learning to make every reasonable effort to distribute voter registration applications for elections for Federal office. It also directs the Secretary of Education to award grants to institutions of higher education that greatly exceed the minimum requirements of the Higher Education Act of 1965 as demonstrated by several enumerated metrics, such as inviting candidates to speak on campus and offering rides to the polls.

The bill allows the Secretary of Education, the Attorney General, a state law enforcement official, or a state education department to enforce the provisions of this act. It also provides a private right of action.

On March 25, 2021, this bill was referred to the Committee on Health, Education, Labor, and Pensions.

H.R. 1059 — America Votes Act

This bill requires states to permit the use of a sworn written statement to meet identification requirements if the state requires that an individual present identification as a condition of receiving and casting a ballot. The bill requires that states include information on the use of sworn written statements on voting information material posted at polling places.

This bill was referred to the Committee on House Administration on February 15, 2021.

H.R. 1245 — Alice Paul Voter Protection Act

This bill adds a new section to the federal criminal code to prohibit hindering, interfering with, or preventing registering to vote, making it unlawful to “corruptly hinder, interfere with, or prevent another person from registering to vote or ... aiding another person in registering to vote.”

This bill requires the Election Assistance Commission to develop and publish recommendations for best practices for states to follow to deter and prevent violations of this section. This bill amends the Help America Vote Act of 2002 by including information on how individuals may report allegations of violations of this section in the required voter information provisions of HAVA.

This bill was referred to the Committee on Crime, Terrorism, and Homeland Security on April 28, 2021.

H.R. 1278 — Know Your Polling Place Act

This bill amends the Help America Vote Act of 2002 to require states to notify voters when their polling place has changed not later than 7 days prior to Election Day.

This bill was referred to the Committee on House Administration on February 24, 2021.

H.R. 1293 — Amending the Help America Vote Act

This bill amends the Help America Vote Act of 2002 to prohibit states from counting ballots received after the date of the election.

This bill was introduced to the House on February 24, 2021, and no further actions has been taken.

H.R. 1366 — Protect the Youth Vote Act

This bill prohibits any state from imposing a voting qualification or prerequisite to voting, or a standard, practice, or procedure in a manner which results in a denial or abridgement of the right of any citizen to vote on account of age. It also establishes a standard to gauge when there is a violation of this prohibition. The bill also gives specific examples of voting practices which would violate the new statute.

This bill also creates a mechanism whereby the Attorney General or any aggrieved person who institutes a proceeding under any statute to enforce the voting guarantees of the 26th Amendment, the court must appoint federal observers from the Office of Personnel Management to enforce the voting guarantees of the 26th Amendment.

This bill prohibits a state or political subdivision from making any change in any prerequisite to voting or a standard, practice, or procedure with respect to voting in any Federal election 180 days before the day of the election.

This bill was referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Judiciary Committee on April 28, 2021.

S. 1470 — Accessible Voting Act

This is the Senate counterpart to H.R. 2941. It was introduced on April 29, 2021, and no action has been taken.

S. 1539 — Voters' Access to Water Act

This bill amends the Help America Vote Act of 2002 to prohibit States from barring the provision of food and water by volunteers to voters waiting in line to cast their ballot. It was referred to the Committee on Rules and Administration on May 10, 2021.

S. 1733 — One Stop Shop Community Reentry Program Act

This is the Senate version of H.R. 3372. It was introduced on May 20, 2021, and no further action has been taken on this bill.

S. 1823 — Voters on the Move Registration Act

This is the Senate version of H.R. 3555. It was introduced on May 25, 2021, and no further action has been taken on this bill.

S. 1840 — Deceptive Practices and Voter Intimidation Act

This bill would substantially amend 52 U.S.C § 10101 *et seq.* by expanding what constitutes voter intimidation. It bans “materially false” statements within 60 days of an election regarding the time, place, or manner of an election or the qualifications for or restrictions on voter eligibility for voting if the speaker “has the intent to impede or prevent another person from exercising the right to vote.” This bill also gives the Attorney General the authority to “correct” any “materially false information.” The Attorney General is also required to provide a report to Congress on its actions taken pursuant to this legislation.

This bill was referred to the Committee on the Judiciary on May 26, 2021.

H.R. 2232 — Help Students Vote Act

This is the House companion bill to S. 992. It was referred to the Committee on Education and Labor as well as the Committee on House administration on March 26, 2021.

H.R. 2358 — Voter Empowerment Act

This bill requires states to allow Internet-based voter registration, prohibits states from requiring voters to provide more than the last four digits of their Social Security number to register to vote, requires the Attorney General to submit a report on data collection efforts to Congress, and requires states to permit a voter registration application to serve as an application for an absentee ballot. The bill also requires that states automatically register eligible individuals to vote,

including pre-registration of 16- and 17-year-olds. It also requires states to permit same-day registration.

This bill requires that each state submit to the Election Assistance Commission and Congress a report on its voter registration statistics. It creates a new grant program for states to engage in activities to encourage the involvement of minors in election activities. The bill includes a provision requiring the inclusion of voter registration information with certain leases and vouchers for federally assisted rental housing and mortgage applications.

This bill makes it a crime to “corruptly hinder, interfere with, or prevent another person from registering to vote or ... prevent another person from aiding another person in registering to vote.”

This bill requires that applicants for driver’s licenses in a new state to indicate whether that state serves as their residence for voter registration purposes. It establishes a pilot program for providing voter registration information to secondary school students prior to graduation. Further, this bill requires states to provide an “early voting” period permitting voters to vote in the same manner as voting is allowed on Election Day prior to Election Day that is no shorter than 15 consecutive days prior to Election Day.

This bill requires the Department of Justice to report on voter disenfranchisement.

This bill introduces requirements for state to promote access to voter registration and voting for individuals with disabilities, expands and reauthorizes a grant program to assure voting access for individuals with disabilities, and establishes pilot programs for enabling individuals with disabilities to register to vote privately and independently at residences. It also requires the Government Accountability Office to analyze and prepare a report on voting access for individuals with disabilities.

This bill bans “deceptive practices,” which includes communicating “materially false” information regarding the time, place, or manner of holding an election or the qualifications or restrictions on voter eligibility for any election with the “intent to impede or prevent another person from exercising the right to vote in an election.”

This bill prohibits states from denying the right to vote to citizens on the basis that they have been convicted of a criminal offense, unless such an individual is serving a felony sentence in a correctional institution or facility at the time of election. The Attorney General is given the authority to enforce this section to ensure no state is infringing on the rights of citizens who have been convicted of criminal offenses.

This bill also includes paper ballot and manual counting requirements, accessibility and ballot verification for individuals with disabilities, durability and readability requirements for ballots, paper ballot printing standards, and requires a study and report on optimal ballot design by the Election Assistance Commission. The bill also establishes requirements for counting provisional ballots and establishes uniform and nondiscriminatory standards for their use.

This bill imposes minimum notification requirements for voters affected by polling place changes, requires states to permit the use of a sworn written statement to meet any identification requirement for voting, requires states to provide secured drop boxes for voted absentee ballots in elections for Federal office, prohibits states from restricting curbside voting, and makes Election Day a holiday. The bill also commissions a Government Accountability Office study on voter turnout rates and a study on ranked-choice voting.

This bill requires that states establish Election Day contingency plans in response to natural disasters and emergencies.

This bill reauthorizes the Help America Vote Act of 2002 and amends that act to require states' participation in post-election surveys. The bill requires that the Election Assistance Commission carry out an assessment of the security and effectiveness of the Commission's information technology systems, including the cyber security of such systems.

This bill applies the National Voter Registration Act of 1993 to territories of the United States and makes the federal voter protection statutes applicable to territories of the United States.

On October 19, 2021, this bill was referred to the subcommittee on the Constitution, Civil Rights, and Civil Liberties within the Committee on the Judiciary.

S. 2615 – Right to Vote Act

This is the Senate version of H.R. 4959. It was referred to the Committee on Rules and Administration on August 4, 2021.

S. 2702 — Frank Harrison, Elizabeth Peratrovich, and Miguel Trujillo Native American Voting Rights Act

This bill is the Senate version of the House Native American Voting Rights Act. It was referred to the Committee on the Judiciary on August 10, 2021.

S. 2747 — Freedom to Vote Act

This bill addresses voter registration and voting access, election integrity and security, redistricting, and campaign finance. It requires state to implement same-day voter registration as well as automatic voter registration. It also limits removing voters from the voter rolls. This bill also establishes Election Day as a federal holiday.

This bill establishes a new criminal offense, making it illegal to “corruptly hinder, interfere with, or prevent another person 16 from registering to vote or to corruptly hinder, interfere with, or prevent another person from aiding another person in registering to vote.” It also requires that the Attorney General establish, and states follow, certain “best practices” for ensuring that there are no violations of this provision.

Further, the bill sets forth provisions related to election security, including by requiring states to conduct post-election audits for federal elections. The bill also outlines criteria for congressional redistricting and generally prohibits mid-decade redistricting. The bill addresses campaign finance, including by expanding the prohibition on campaign spending by foreign nationals, requiring additional disclosure of campaign-related fundraising and spending, requiring additional disclaimers regarding certain political advertising, and establishing an alternative campaign funding system for certain federal offices.

According to the Brennan Center for Justice, “the Freedom to Vote Act contains the vast majority of the most critical provisions that were in the For the People Act.”¹⁴² It differs from that bill in that it provides, in the view of the Brennan Center, which supports the Freedom to Vote Act, more flexibility for states and election officials on how to adopt the requirements.

The bill failed cloture in the Senate on October 20, 2021.

S. 2928 — Election Worker and Polling Place Protection Act

This bill proscribes more conduct as a violation of federal law, including “intentionally physically damages or threatens to physically damage any physical property being used as a polling place or tabulation center or other election infrastructure,” and makes the “he use, attempted use, or threatened use of a dangerous weapon, explosives, or fire” in connection with such acts, or “if death results from the acts committed in violation of this subsection or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.”

The bill also removes the “willful” standard for existing federal law on the subject, and adds the “violence, or threat of harm to any person or property, intentionally” standard to the law.

This bill was introduced on October 4, 2021, and not further action has been taken.

H.R. 2941 — Accessible Voting Act

This bill addresses voting accessibility for individuals with disabilities and older individuals. The bill establishes the Office of Accessibility within the Election Assistance Commission. The office will serve as the advocate on behalf of voters with access needs, ensure state and local officials are maintaining voting systems that meet the DOJ’s accessibility standards, and make payment to states to implement the accessibility requirements outlined in the bill.

This bill amends the Help America Vote Act of 2002 to add a section requiring states to ensure that all polling places and ballot drop boxes within the State are accessible to persons with disabilities. States must also address long wait time at polling places and allow individuals with

¹⁴² Wendy R. Weiser, Daniel I. Weiner, and Emil Mella Pablo, “Breaking Down the Freedom to Vote Act,” *The Brennan Center for Justice*, (Sept. 23, 2021), <https://www.brennancenter.org/our-work/research-reports/breaking-down-freedom-vote-act>.

disabilities and older individuals alternative options for casting in-person ballots. The bill also removes the prohibition on using HAVA grant funds to “initiate or otherwise participate in any litigation related to election-related disability access.”¹⁴³

This bill further requires that states refrain from determining that an individual lacks the capacity to vote in an election for Federal office on the ground that the individual is subject to guardianship. This bill also requires states implement no-excuse absentee voting for all voters.

This bill was referred to the House Committee on House Administration on April 30, 2021.

H.R. 3372 — One Stop Shop Community Reentry Program Act

This bill authorizes the Attorney General to carry out a grant program to make grants to eligible entities for the purpose of creating community reentry centers. It sets forth application requirements and the standards by which the Attorney General is to judge applicants. Eligible entities are community-based nonprofit organizations which have expertise in the provision of reentry services. The Attorney General must also submit to Congress an annual report on this grant program. This bill also provides an appropriation of \$1.5 million for each fiscal year 2022 through 2026.

This bill was ordered to be reported by the Committee on the Judiciary on July 21, 2021.

S. 3485— The SERVIS Act

These bills prohibit requiring voters to present vaccine passports or other information regarding their COVID-19 vaccination status, and also restricts masking requirements, for voting in federal elections. Specifically, the bill makes it unlawful for any state or political subdivision to require a voter to present a vaccine passport or other information regarding the voter's COVID-19 vaccination status.

This bill was referred to the Committee on Rules and Administration on January 12, 2022.

H.R. 3555 — Voters on the Move Registration Act

This bill requires the inclusion of voter registration information to be provided with certain leases and vouchers for federally assisted rental housing and mortgage applications. The bill requires the Director of the Bureau of Consumer Protection to consult with the Election Assistance Commission to develop a uniform statement that will provide recipients with information on how they can vote and the voting rights of the recipient.

¹⁴³ 52 U.S.C. § 21062(a).

It was ordered to be reported by the Committee on Financial Services on July 29, 2021. This means the bill was recommended to be considered further by the House.

H.R. 4307 — John Tanner Fairness and Independence in Redistricting Act

This bill would require redistricting to be conducted through a plan enacted by an independent state commission or a state's highest court. The bill details how the members of such an independent commission are to be selected, the eligibility of individuals to be members of the commission, and the criteria for the redistricting plan, including, among other things, the prohibition of consideration for the voting history, political party affiliation, or residence of incumbent members of the House of Representatives.

The independent commission must solicit and take into consideration the comments from the public in developing redistricting plans, give public notice of its redistricting plan, and submit the plan to the Legislature of the state. The state Legislature may approve or reject it but cannot create its own plan.

This bill was introduced on July 1, 2021. It has not been assigned to a committee and no further action has been taken.

H.R. 4959 — Right to Vote Act

This bill permits every citizen of legal voting age to vote in elections for Federal office free from any burden on the time, place, or manner of voting, and announces that a government may not substantially impair the ability to vote in an election for Federal office. A substantial impairment is defined as any impairment that makes it more difficult to vote than if the challenged law, standard, practice or procedure had not been adopted. This bill also outlines the standards for judicial review of challenges to voting practices and permits the U.S. District Court for the District of Columbia to have jurisdiction over any case brought pursuant to this law.

This bill was referred to the House Committee on the Judiciary on August 8, 2021.

H.R. 5008 — Frank Harrison, Elizabeth Peratrovich, and Miguel Trujillo Native American Voting Rights Act

This bill addresses the voting rights of Native American and Alaska Native voters and voting access on tribal lands. It establishes a Native American Voting Task Force grant program to provide funding to establish and operate voting task forces in each state with a federally recognized Indian Tribe, establishes voter registration at Indian Service Centers and other facilities, and seeks to increase polling site accessibility by expanding early in-person voting and providing ballot drop boxes.

This bill requires approval for actions such as moving a polling place and requires the state or political subdivision to make reasonable efforts to contact a voter who resides within Indian lands located within its jurisdiction to offer such voter an opportunity to cure any defect in an absentee ballot. States that do not permit absentee or mail-in voting for all voters must nonetheless offer it to Native American voters residing on Indian lands. The bill makes tribal identification sufficient for any identification requirements for voting or registering to vote.

This bill requires the Government Accountability Office to study the prevalence of nontraditional or nonexistent mailing addresses among Indians and recommend alternatives to remove barriers to voter registration, voter information and materials, and receipt of ballots. This bill also provides a private right of action as well as enforcement power to the Attorney General.

It was referred to the Committee on House Administration on August 13, 2021.

H.R. 5746 — Freedom to Vote: John R. Lewis Act (amendment)

This bill was an amendment to the NASA Enhanced Use Leasing Extension Act of 2021. It is similar in substance to S.4. It would make Election Day a federal holiday, requires states to offer same-day voter registration, establish minimum early voting periods, and require states to allow absentee voting for any reason. It also requires states to allow the voter registration application to serve as an application for an absentee ballot. The bill would further require states to establish and operate a system of automatic registration.

The bill also sets criteria for congressional redistricting and generally prohibits mid-decade redistricting, introduces more campaign finance rules, including rules regarding foreign financing in election campaigns, and provides financing for certain federal elections. The bill also makes it a federal crime to harass or intimidate a poll worker and requires states to promote access to voter registration for voters with disabilities.

The amendment passed on January 13, 2022 and was sent back to the Senate on January 19, 2022 where a motion to proceed to consideration of the motion to reconsider the vote by which cloture on the motion to concur in the House amendment to the Senate amendment to H.R. 5746 (Record Vote No. 9) was withdrawn. Failure to gain cloture means the bill was filibustered.

The procedure of having this bill attached as an amendment to a bill which had already passed the Senate was an attempt to bypass the filibuster.

H.R. 6558 — The SERVIS Act

This is the House companion to S. 3485. It was referred to the Committee on the Judiciary and to the Committee on House Administration on February 2, 2022.

FUTURE TOPICS FOR CONSIDERATION

On April 6, 2022, the House State Government Committee held a public hearing on election laws and Commission staff were invited to provide testimony as to the progress of the ELAB study and areas currently under consideration. In response to questions from committee members, staff has prepared the following three sections to address additional topic areas.

Voter Confidence in Elections

The importance of the electorate's confidence in its elections cannot be understated. Voter confidence in elections is "central to the operation of democratic governance."¹⁴⁴ The potential risk of an electorate that lacks confidence in its state's elections system is that many members who lose faith may choose not to cast a ballot – the idea being that there is no real reason to vote in a broken system. Consequently, a decline in voter participation can produce election results that do not accurately reflect the will of the people.

In the past, voter confidence research has found that many voter concerns were tied to the challenges of casting a ballot with new and unfamiliar technologies and voting procedures. These challenges can play a role in a voter's overall experience at the polls, which can also shape their confidence in an election. Other examples effecting a voter's overall voting experience can include waiting in long lines, confusing ballots, and the quality of assistance provided by poll workers and election officials. All of these can impact a voter's perception of the election process. If a voter has a positive experience, they are more likely to have confidence in the election and are more likely to cast a ballot.¹⁴⁵

Over time, confidence trends started to vary based on certain factors, both nationally and among Pennsylvania voters. The MIT Election Data and Science Lab conducted research in 2021 regarding election confidence in 2020. The lab compared this data to data from years prior and found that since 2008, there has been a shift in voter concerns from voting equipment and voter experience at the polls to voter fraud and illegal voting, usually among supporters of losing candidates. This new finding would suggest that recent voters' confidence in election results, and more specifically, the belief that their vote was accurately counted, is now largely connected to whether the voter in question supported the winning or losing candidate in the election – a phenomenon often referred to as the "winner(loser) effect." The study also found that voters who supported the losing candidate in states that had the most competitive vote totals between candidates are generally the least confident in the accuracy of the vote count at all electoral

¹⁴⁴ Colin Jones, Robert M. Stein, Lonna Atkeson, *et al.*, "Measuring Election Confidence in 2020," MIT Election Data and Science Lab, (Nov. 11, 2021).

¹⁴⁵ *Ibid.*

levels.¹⁴⁶ Some experts opine that if voter trust of the electoral system depends on whether their side wins or loses, the notion of non-partisan election administration is undermined.¹⁴⁷ Other recent studies have generated similar findings despite a large percentage of voters indicating a mostly positive voting experience.

The 2020 Election Day Voter Experience Study conducted a national review of the voter experience for over 15,000 voters from the 2020 General Election. The study found that the “vast majority of respondents (89%) indicated that they were satisfied with their overall voting experience.”¹⁴⁸ In fact, most voters did not report any problems and most found their voting experience to be a seamless one. Furthermore, most respondents (73%) indicated that they were confident that their ballots would be counted accurately; however, more than a quarter of the participants (27%) were not so confident. The study also concluded that 85 percent of respondents were still worried about the integrity of U.S. elections.¹⁴⁹

As of January 2022, Pennsylvania voter confidence is divided. According to Muhlenberg College’s *2022 Pennsylvania Electoral Process Survey*, six in ten Pennsylvanians who voted in the 2020 Presidential Election are confident that the election was conducted fairly. However, four in ten indicated they were not confident in the fairness and integrity of the election, with 24 percent not confident at all. The survey also found that the level of trust toward government institutions and officials on election matters varies depending on the level government an official works in. For example, 67 percent of 2020 voters either strongly or somewhat trust county election officials, compared to 49 percent of voters trusting the legislature, and 45 percent trusting the Governor. Only 57 percent strongly or somewhat trusted the Pennsylvania Supreme Court.¹⁵⁰ The level of trust varied based on party affiliation. A breakdown of the voter trust found in the survey for these institutions and officials is shown in Table 4.

¹⁴⁶ *Ibid.*

¹⁴⁷ GW Politics Poll, “GW Politics Poll Finds Varying Confidence in State and Local Elections,” George Washington University, (Jul. 28, 2021), <https://gwtoday.gwu.edu/gw-politics-poll-finds-varying-confidence-state-and-local-elections>, last accessed May 4, 2022.

¹⁴⁸ 2020 Election Day Voter Experience Study, *U.S. Vote Foundation and Overseas Vote*, (2020), p. 1, https://usvotefoundation-drupal.s3.amazonaws.com/prod/s3fs-public/USVote_2020_Post_Election_Study_02.22.21_ReaderView.pdf, last accessed on April 27, 2022.

¹⁴⁹ *Ibid.*

¹⁵⁰ 2022 Pennsylvania Electoral Process Survey, Muhlenberg College, (Jan. 6, 2022), <https://www.muhlenberg.edu/aboutus/polling/politicselectionssurveys/archivedpolls/2022-pennsylvaniaelectoralprocesssurvey/>, last accessed on April 27, 2022.

Table 4					
Pennsylvania Voter Trust by Institution and Official regarding Elections 2022					
The Pennsylvania Legislature					
	Strongly Trust	Somewhat Trust	Somewhat Distrust	Strongly Distrust	Not Sure
Overall	11%	38%	21%	19%	11%
Democrat	18	43	13	14	11
Republican	3	32	28	27	10
Independent	9	40	22	9	20
The Governor					
	Strongly Trust	Somewhat Trust	Somewhat Distrust	Strongly Distrust	Not Sure
Overall	23%	22%	15%	35%	5%
Democrat	40	32	8	14	7
Republican	5	13	23	57	3
Independent	26	17	11	37	9
County Election Officials					
	Strongly Trust	Somewhat Trust	Somewhat Distrust	Strongly Distrust	Not Sure
Overall	26%	41%	14%	10%	9%
Democrat	38	42	7	5	9
Republican	15	40	21	15	10
Independent	29	42	13	9	7
The Pennsylvania Supreme Court					
	Strongly Trust	Somewhat Trust	Somewhat Distrust	Strongly Distrust	Not Sure
Overall	21%	36%	12%	14%	18%
Democrat	30	41	7	8	14
Republican	11	33	17	20	20
Independent	22	35	11	11	22

Source: Data Compiled by the Commission obtained from 2022 Pennsylvania Electoral Process Survey, Muhlenberg College, (Jan. 6, 2022), <https://www.muhlenberg.edu/aboutus/polling/politicselectionssurveys/archivedpolls/2022-pennsylvaniaelectoralprocesssurvey/>, Last accessed on April 27, 2022.

The 2021 George Washington Politics Poll similarly found a noticeable difference in voter trust levels toward government institutions and officials. Specifically, the poll found that 85 percent of Democrat participants trusted their local election officials and 76 percent trusted their state officials, compared to 63 percent and 44 percent of Republicans, respectively. The poll’s main finding however was that voter confidence largely differs according to geography and party affiliation.¹⁵¹

The 2022 Muhlenberg College survey also found a sharp divide down party lines regarding voters’ top concerns for future elections. The study found that 57 percent of Democratic voters’ view voter suppression as the largest threat to safe, secure, and accurate elections in 2022. Alternatively, 37 percent of Republican voters in Pennsylvania view voter fraud or the use of mail-in ballots (31 percent) as the largest outstanding threats to the integrity of upcoming elections. Overall confidence in mail-in ballots is illustrated in Table 5.

Table 5					
Voter Confidence in Mail-In Ballots					
2022					
	Very Confident	Somewhat Confident	Not Too Confident	Not Confident at All	Not Sure
Overall	29%	21%	13%	37%	1%
Democrat	52	27	6	13	1
Republican	6	14	18	62	0
Independent	27	22	18	31	2

Source: Data Compiled by the Commission obtained from 2022 Pennsylvania Electoral Process Survey, Muhlenberg College, (Jan. 6, 2022), <https://www.muhlenberg.edu/aboutus/polling/politicselectionssurveys/archivedpolls/2022-pennsylvaniaelectoralprocesssurvey/>, Last accessed on April 27, 2022.

¹⁵¹ *Supra*, n. 147.

Similarly, voter confidence in electronic voting systems in Pennsylvania is divided among political parties with Democratic voters having higher levels of confidence and Republican voters having higher levels of distrust. See Table 6.

Table 6					
Voter Confidence in Electronic Voting Systems					
2022					
	Very Confident	Somewhat Confident	Not Too Confident	Not Confident at All	Not Sure
Overall	37%	32%	14%	17%	1%
Democrat	58	27	6	13	1
Republican	15	35	21	27	1
Independent	41	30	9	20	0

Source: Data Compiled by the Commission obtained from 2022 Pennsylvania Electoral Process Survey, Muhlenberg College, (Jan. 6, 2022), <https://www.muhlenberg.edu/aboutus/polling/politicselectionssurveys/archivedpolls/2022-pennsylvaniaelectoralprocesssurvey/>, last accessed on April 27, 2022.

Four in ten Pennsylvania voters indicated they were very or somewhat confident that there was widespread election fraud in the 2020 election. In Pennsylvania, Republican voters appear to have significantly lower levels of confidence in all electoral processes and state institutions when compared to their Democratic and Independent counterparts. This is evidenced by the difference in top concerns of Republican versus Democratic voters, but also since approximately seven in ten of the voters who indicated they were very or somewhat confident there was widespread voter fraud were Republican voters.¹⁵²

The MIT study concluded that local election officials can curb declining voter confidence and the winner (loser) effect in competitive states by improving both the in-person and mail-in voting experience in ways that have made a difference in the past. For example, local election officials’ successful efforts to decrease long wait times, hire competent poll workers, and other measures to eliminate the issues some voters face when casting a ballot could improve voter confidence levels, even among voters who supported the losing candidate in a close race.¹⁵³ Improvements to mail-in voting experience could include shortening the turnaround time for processing applications and sending ballots to voters, improving ballot tracking, clarifying the mail-in process as a whole, and improving access to local election officials for purposes of seeking guidance.¹⁵⁴

¹⁵² *Ibid.*

¹⁵³ *Supra*, n. 144.

¹⁵⁴ Committee of Seventy “Voter Experience Survey June 2020,” <https://archive.seventy.org/uploads/files/884220656482483885-voter-experience-survey-results-summary-nov-2020.pdf>, last accessed on May 6, 2020.

Some states are taking an organized approach to study the causes and effects of voter confidence decline. To address voter confidence among its residents, the state of New Hampshire created a bipartisan Commission on Voter Confidence. The commission is comprised of eight members, which includes activists, a member of various nonprofits, and former legislators. The commission intends to hold listening sessions throughout the state to address the underlying causes behind the declining voter confidence.¹⁵⁵

Election Audits

This section is an initial foray by staff into the topic of election verification. Staff will continue to research and analyze this material for future meetings of the ELAB.

Subsequent to the November 2020 Presidential Election, concerns were raised regarding how the accuracy of voting is accounted for, and how fraud and misconduct are detected and addressed. Pennsylvania statutorily addresses recounts, and a form of a statistical analysis of ballots that can be used to estimate/predict accuracy.

Recounts and Recanvases

Recounts and recanvases of votes occur in a variety of ways, which are distinguished by the justification that must be presented in order to obtain the recounts and the body responsible for the recount or recanvas.

The Election Code of 1937 governs recounts or recanvases of votes. The county board of elections can summon the county election officers to conduct a recount or recanvass of all the ballots cast in any election district under certain circumstances. The recount or recanvass must be conducted in the presence of the county board. The county board can act on its own initiative when a discrepancy in the return appears, or when three voters of any district file a petition, verified by affidavit, claiming that an error, although not apparent on the face of the returns, has been committed. This applies to districts using manual ballots or using an electronic voting system.¹⁵⁶

Upon petition, a judge of a county Court of Common Pleas may order a recount or recanvass. Three qualified electors of the election district must file a petition, verified by affidavit, alleging that upon information which they consider reliable they believe that fraud or error, although not manifest on the general return of votes, was committed in the computation of the votes cast, or in the marking of the ballots, or otherwise in connection with the ballots. It is not necessary for the

¹⁵⁵ New Hampshire Department of State, “Commission on Voter Confidence Members,” <https://www.sos.nh.gov/commission-voter-confidence-members>, last accessed on May 4, 2022; “New Hampshire Creates Voter Confidence Commission,” *Associated Press*, (Apr. 26, 2022), <https://www.usnews.com/news/best-states/new-hampshire/articles/2022-04-26/new-hampshire-creates-voter-confidence-commission>, last accessed on May 4, 2022.

¹⁵⁶ The Election Code of 1937, Sections 1404(e), and 1118-A.

petitioners to specify in their petition the particular act of fraud or error which they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.¹⁵⁷

The Secretary of the Commonwealth must order a recount and recanvass by all county boards if the unofficial returns received by the Department of State that a candidate for statewide office was defeated by one-half of a percent or less of the votes cast for the office. This rule also applies to retention elections for statewide judicial office and statewide ballots questions that were approved or rejected by one-half of a percent or less of the votes cast on the question.¹⁵⁸

In these close races, the Commonwealth Court can also be petitioned to order a recount conducted by persons appointed by the court. Like the process to petition the county Court of Common Pleas regarding local recount, three qualified electors of the election district must file a petition, verified by affidavit, alleging that upon information which they consider reliable they believe that fraud or error, although not manifest on the general return of votes, was committed in the computation of the votes cast, or in the marking of the ballots, or otherwise in connection with the ballots. It is not necessary for the petitioners to specify in their petition the particular act of fraud or error which they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.¹⁵⁹

Jurisdictional and petitioner requirements for election contests vary based upon the office contested. However, in general, specific allegations of illegality or fraud are required, bond posted, and costs assessed against petitioners in the event the court of jurisdiction finds that the contest was without cause.¹⁶⁰

Post-Election Audits

Post-election audits serve multiple purposes and take multiple forms. In its simplest form, it means checking ballots or records against the results produced by the voting system to ensure accuracy. Post-election audits, unlike recounts, are conducted regardless of margins or error. Pennsylvania is among 34 states and the District of Columbia that conduct traditional post-election audits. Generally, in traditional post-election audits, a fixed percentage of the votes are manually counted.¹⁶¹ Pennsylvania's statutory requirement states that the county board of elections must conduct a "statistical recount of a random sample of ballots after each election using manual, mechanical or electronic devices of a type different than those used for the specific election." The sample must include a least two percent of the votes cast or 2,000 votes, whichever is the lesser.¹⁶²

Risk-limiting audits are found statutorily mandated in three states. Four states give counties the option to conduct them, and according to NCSL, eight states have either statutory or administrative pilot programs. However, it should be noted that NCSL includes Pennsylvania in this list, citing the statistical recount described above. Risk-limiting audits are designed to limit the risk that an election is certified with the wrong winner. A risk limit is established by election

¹⁵⁷ Ibid., Sections 1701(a) and 1702(a)(1).

¹⁵⁸ Ibid., Section 1404(g) and (h).

¹⁵⁹ Ibid., Sections 1701(a.1) and 1702(a).

¹⁶⁰ Ibid., Article XVII(b), § 1711 et seq.

¹⁶¹ National Conference of State Legislatures, "Post-Election Audits," April 1, 2022.

¹⁶² The Election Code of 1937, Section 1117-A.

officials. A risk limit of 10 percent would mean that there was a 90 percent chance that the audit would correct an incorrect outcome. Risk-limiting audits start with a random sample. The initial sample size is based on the risk limit. The smaller the risk limit, the greater number of ballots that are selected. Wider margins start with smaller samples. If discrepancies are found, the sample size increases until either strong evidence is found that the reported outcome is correct, or if strong evidence is not found, the audit becomes a full recount.¹⁶³

Procedural audits are designed to ensure that the correct process and procedures were following by election officials and workers.

Performance audits are a more comprehensive assessment of the overall efficiency, economy, and effectiveness of an entity. The standards for the audits are laid out by the U.S. Government Accountability Office (GAO). Specific objectives can include compliance with legal requirements, and can seek to determine fraud and wasteful processes, and identify areas vulnerable to fraud and misconduct.

Election Fraud and Misconduct

Staff has conducted a search of prosecuted instances of voter fraud in Pennsylvania, for the 20-year period 2000-2020. No cases were identified for the years 2021 and 2022. The cases identified are set forth below, listed in reverse chronological order.

Danielle Dooner — A Bucks County woman is being charged with misdemeanor voter fraud charges for voting a mail-in ballot for the 2020 Presidential Election on behalf of her deceased mother.¹⁶⁴ Staff has been unable to verify the current status of this case.

Melissa Ann Fisher — A Bucks County woman pleaded guilty to violations relating to absentee or mail-in ballots for voting a mail-in ballot during the 2020 Presidential Election in the name of her deceased mother.¹⁶⁵

Michael “Ozzie” Myers — A former Philadelphia Congressman is being charged by the U.S. Department of Justice with conspiracy and bribing Dominic DeMuro, the former judge of elections for the 39th Ward in Philadelphia. The conspiracy involved bribing the judge of elections to stuff

¹⁶³ National Conference of State Legislatures, “Risk-Limiting Audits,” September 16, 2021.

¹⁶⁴ Associated Press, “2 women charged with trying to vote for deceased mothers,” *U.S. News & World Report*, (May 4, 2021), <https://www.usnews.com/news/best-states/pennsylvania/articles/2021-05-04/2-women-charged-with-trying-to-vote-for-deceased-mothers>.

¹⁶⁵ *Id.*; Court of Common Pleas of Bucks County, *Com v. Melissa Ann Fisher*, CP-09-CR-0002991-2021, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-09-CR-0002991-2021&dnh=o8fDFsSaGCQuOxwtpBUbMA%3D%3D>.

ballot boxes for specific candidates in the 2014, 2015, and 2016 primary elections.¹⁶⁶ Myers pleaded guilty in federal court on June 6, 2022.¹⁶⁷

Marie Beren — A former judge of elections in Philadelphia who was charged separately and pled guilty in October 2021 for her part in the conspiracy orchestrated by Michael Myers.¹⁶⁸

Dominic DeMuro — A former Philadelphia judge of elections admitted to accepting cash bribes to tamper with the city’s primary elections from 2014-2016. Prosecuted in federal court, he pleaded guilty to conspiracy to deprive voters of their civil rights and violating the Travel Act.¹⁶⁹

Bruce Bartman — A Delaware County man who falsely registered for a mail-in ballot on behalf of his deceased mother and mother-in-law with the goal of casting those ballots on their behalf during the 2020 Presidential Election. He pleaded guilty to two felony count of perjury and one misdemeanor count of unlawful voting.¹⁷⁰

Ralph Holloway Thurman — A Chester County man cast an illegal ballot in his son’s name during the 2020 Presidential Election. After casting his own ballot, he later returned to the polling place in a disguise and cast the second ballot.¹⁷¹

Robert Richard Lynn — A Luzerne County man pleaded guilty to a third-degree misdemeanor charge for applying for and voting a mail-in ballot on behalf of his deceased mother in the 2020 Presidential Election.¹⁷²

Harry Sandoe Maxwell — A Delaware County man had others fraudulently sign absentee ballot signatures for persons who were deceased, and was consequently charged with forgery, tampering

¹⁶⁶ United States Department of Justice, “Former Congressman Charged with Ballot Stuffing, Bribery, and Obstruction,” Press Release (July 23, 2020), <https://www.justice.gov/opa/pr/former-congressman-charged-ballot-stuffing-bribery-and-obstruction>.

¹⁶⁷ United States Department of Justice, “Former U.S. Congressman and Philadelphia Political Operative Pleads Guilty to Election Fraud Charges,” Press Release (June 6, 2022). <https://www.justice.gov/usao-edpa/pr/former-us-congressman-and-philadelphia-political-operative-pleads-guilty-election-fraud>.

¹⁶⁸ *Ibid.*

¹⁶⁹ “Ex-elections judge admits taking bribes to stuff ballot box,” *Associated Press*, (May 21, 2020), <https://local21news.com/news/local/ex-elections-judge-admits-taking-bribes-to-stuff-ballot-box>.; United States Department of Justice, “Former Philadelphia Judge of Elections Convicted of Conspiring to Violate Civil Rights and Bribery,” Press Release, (May 21, 2020), <https://www.justice.gov/opa/pr/former-philadelphia-judge-elections-convicted-conspiring-violate-civil-rights-and-bribery>

¹⁷⁰ “Man admits to voter fraud in casting dead mother’s ballot,” *Associated Press*, (Apr. 30, 2021), <https://apnews.com/article/election-2020-government-and-politics-d34effea6c341d6c44146931127caff>.

¹⁷¹ Vinny Vela, “A Chester County man admitted he voted illegally in his son’s name in the 2020 election,” *Philadelphia Inquirer*, (Sept. 20, 2021), http://thf_media.s3.amazonaws.com/2021/Voter_Fraud_Database/10_21/Ralph%20Holloway%20Thurman%202021%20PA.pdf.

¹⁷² Ed Lewis, “‘Dude in Forty Fort’ pleads guilty to absentee ballot violation,” *Times-Leader*, (May 11, 2022), <https://www.timesleader.com/news/1507381/dude-in-forty-fort-pleads-guilty-to-absentee-ballot-violation>.

with records, conspiracy, and election code violations.¹⁷³ He later pleaded guilty to violations of the absentee elector law and conspiracy to forge in 2019.¹⁷⁴

Thurman George — An election board member and machine inspector in Philadelphia pleaded guilty to a felony charge of fraud by an election officer for casting fictitious ballots and intimidating and preventing persons from casting a ballot in the 2017 special election for the 197th Pennsylvania House district.¹⁷⁵

Dolores Shaw — A judge of election in Philadelphia, Shaw worked with Thurman George to intimidate and prevent voters from casting a ballot during the 2017 special election for the 197th Pennsylvania House district. She was convicted of compromising the local election board.¹⁷⁶

Calvin Mattox — A minority inspector in Philadelphia who worked with Thurman George to intimidate and prevent voters from casting a ballot during the 2017 special election for the 197th Pennsylvania House district. He pleaded guilty to not meeting the qualifications of election officers for living outside the district.¹⁷⁷

Wallace Hill — A translator in Philadelphia, Hill worked with Thurman George and others to intimidate and prevent voters from casting a ballot during the 2017 special election for the 197th Pennsylvania House district. He pleaded guilty to failure to perform duty.¹⁷⁸

Richard Cummings, Jr. — A man moved from Westmoreland County to Allegheny County but continued to vote in Westmoreland County using his old address. He voted illegally in Westmoreland County in 2010, 2012, and 2016. He pleaded guilty to one count of illegal voting.¹⁷⁹

¹⁷³ Max Bennett, “Delco man charged with Voter Fraud: District Attorney,” *Patch*, (Nov. 20, 2018), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Harry%20Sandoe%20Maxwell%202019%20PA.pdf.

¹⁷⁴ Court of Common Pleas of Delaware County, Docket of Com. v. Maxwell, CP-23-CR-0007242-2018, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-23-CR-0007242-2018&dnh=UPDIAwqndFUH9KCYIzUQVw%3D%3D>.

¹⁷⁵ Robert Moran, “Philly election worker pleads guilty to fraud,” *Philadelphia Inquirer*, (May 9, 2018), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Thurman%20George%202018%20PA.pdf.

¹⁷⁶ “Election worker pleads guilty to intimidating voters who wanted to vote for non-Democratic candidates,” *CBS3 Philly*, (May 9, 2018), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Dolores%20Shaw%202018%20PA%20Source%203.pdf.

¹⁷⁷ *Id.*

¹⁷⁸ Pennsylvania Attorney General, “Fourth of four defendants in vote fraud case is held accountable for illegal activity in Philadelphia special election,” Press Release, (Jun. 6, 2018), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Wallace%20Hill%202018%20PA.pdf/.

¹⁷⁹ Rich Cholodofsky, “Elizabeth Forward school director gets probation for voting illegally in Westmoreland County,” *TribLive*, (Nov. 29, 2017), <https://archive.triblive.com/local/westmoreland/elizabeth-forward-school-director-gets-probation-for-voting-illegally-in-westmoreland-county/>.

Cheryl Ali — In 2014, Ali voted on behalf of her mother illegally and also served as a machine inspector at a polling place even though she did not live in that district. She pleaded guilty to a misdemeanor charge of violating the election code.¹⁸⁰

Eugene Gallagher — A Lackawanna County man who was running for councilman in the Borough of Taylor pleaded guilty to forgery for a scheme to convince non-residents of the borough to register for and vote absentee ballots using a fake borough address. A total of six fraudulent ballots were cast. The scheme occurred in 2013.¹⁸¹

Richard Allan Toney — In 2009, the former Harmar police chief asked several voters to apply for absentee ballots, delivered their applications to the Allegheny County Election Board, and then delivered the completed ballots to the board. However, some of the voters stated that Toney told them who to vote for and that they felt intimidated because of his position as police chief. Further, the voters were not eligible for absentee ballots. In the election in which this occurred, Toney's wife was running for supervisor.¹⁸²

Michael Monaghan — A Chester County man pleaded guilty to unlawful voting. No details as to the events underlying the 2012 conviction are available.¹⁸³

David Patrick Duffy — A Bucks County man pleaded guilty to forging numerous individuals' signatures on fraudulent voter registrations.¹⁸⁴ No details as to the events underlying the 2010 conviction are available.

Eric L. Jones — An Allegheny County man pleaded guilty to forgery and unsworn falsification for his 2009 actions in forging false voter registrations while working for the NGO ACORN.¹⁸⁵

Alexis Givner — An Allegheny County woman pleaded nolo contendere to unsworn falsification and interference for her 2009 actions in forging false voter registrations while working for the NGO ACORN.¹⁸⁶

¹⁸⁰ Sam Newhouse, "Philly election officials plead guilty," *Metro*, (Jan. 14, 2016), [http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/9_21/Cheryl%20Ali%20\(aka%20Cheryl%20\(Jamison\)%202016%20PA%20Source%202.pdf](http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/9_21/Cheryl%20Ali%20(aka%20Cheryl%20(Jamison)%202016%20PA%20Source%202.pdf).

¹⁸¹ Eric Deabill, "Former councilman sentenced for forgery," *PA Homepage*, (Aug. 4, 2015), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Eugene%20Gallagher%2015%20PA.pdf.

¹⁸² Brian Bowling, "Former Harmar police chief admits to election tampering," *TribLive*, (Sept. 25, 2014), <https://archive.triblive.com/news/former-harmar-police-chief-admits-to-election-tampering/?printerfriendly=true>.

¹⁸³ Court of Common Pleas of Chester County, Docket of Com v. Michael J. Monaghan, CP-15-CR-0000449-2012, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-15-CR-0000449-2012&dnh=QvFKvm8FUzn0urrUx4dNGw%3D%3D>.

¹⁸⁴ Court of Common Pleas of Bucks County, Docket of Com. v. David Patrick Duffy, CP-09-CR-0001207-2010, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-09-CR-0001207-2010&dnh=s9DIQgRpskvi19II%2FQkWDw%3D%3D>.

¹⁸⁵ "Ex ACORN worker cops a plea on voter registration fraud charges," *Politisite*, (Mar. 17, 2010), http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Eric%20Jones,%20Alexis%20Givner,%20and%20Mario%20Grisom%202010%20PA%20Source%202.pdf.

¹⁸⁶ *Id.*; Court of Common Pleas of Allegheny County, Docket of Com v. Alexis M. Givner, CP-02-CR-0009002-2009, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-02-CR-0009002-2009&dnh=3xF%2F6peJSXyRmI4zS5V1dw%3D%3D>.

Mario Grisom — An Allegheny County man pleaded guilty to unsworn falsification and interference for his 2009 actions in forging false voter registrations while working for the NGO ACORN.¹⁸⁷

Jamar Barksdale — A man pleaded guilty to forgery, identity theft, and tampering with public records for submitting 18 fraudulent and 22 completely fictitious voter registration applications to Delaware County in 2008. When he did so, he was working on behalf of the NGO ACORN.¹⁸⁸

George Edgar Rheam Jr. — A Mifflin County man was charged with forgery and false swearing under the Crimes Code and perjury and false signatures and statements under the Election Code for actions that took place in 2004. He eventually pleaded guilty to the latter two charges. Further details were unavailable.¹⁸⁹

Victor Bernard Pinho — A Philadelphia man pleaded guilty to unlawful voting for voting both in Philadelphia and Lehigh Counties in 2004.¹⁹⁰

Mark Cosentino — An Allegheny County man registered to vote in one township despite having moved to a location in another township. He pleaded guilty to one count of unlawful voting. The incident occurred in 2002.¹⁹¹

Linda Deren — A Westmoreland County woman pleaded guilty to one charge of unlawful voting for an incident that occurred in 2001. No further details were available.¹⁹²

¹⁸⁷ *Id.*; Court of Common Pleas of Allegheny County, Docket of Com. v. Mario Wyatt Grisom, CP-02-CR-0009001-2009, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-02-CR-0009001-2009&dnh=N2PIsTr6%2FqWT0ws2DowUaw%3D%3D>.

¹⁸⁸ “Ex-ACORN worker enters guilty plea,” *Daily Times*, (Nov. 25, 2008), <https://www.delcotimes.com/2008/11/25/ex-acorn-worker-enters-guilty-plea/>; Court of Common Pleas of Delaware County, Docket of Com. v. Jemar Barksdale, CP-23-CR-007291-2008.

¹⁸⁹ E-mail from Mark Remy to Corbin Carson, available at http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/George%20Edgar%20Rheam%20Jr.%202004%20PA.pdf.

¹⁹⁰ Letter from Lehigh County Office of the District Attorney to Corbin Carson, Jul. 10, 2012, available at http://thf_media.s3.amazonaws.com/2020/Voter%20Fraud%20Database/Pennsylvania/Victor%20Bernard%20Pinho%202004%20PA.pdf.

¹⁹¹ Court of Common Pleas of Westmoreland County, Docket of Com. v. Mark V. Cosentino, CP-65-CR-0003172-2002, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-65-CR-0003172-2002&dnh=JxwbwFdcM%2FjNR1WTtGtiqw%3D%3D>.

¹⁹² Court of Common Pleas of Westmoreland County, Docket of Com. v. Linda J. Deren, CP-65-CR-0002686-2002, <https://ujportal.pacourts.us/Report/CpDocketSheet?docketNumber=CP-65-CR-0002686-2002&dnh=4UmJ3z6H2p0bpwHgOq215A%3D%3D>.

Topics Under Development by Staff

Assisted Registration and Voting

The provision of assistance to voters with disabilities is a topic both the House State Government Committee and the ELAB are interested in and is considered a problematic issue. Staff is currently researching this area and will be presenting their findings to the ELAB in future meetings.

The ability to vote of persons with disabilities or who are residing in assisted living facilities such as nursing homes is an area that ELAB plans to explore further. Many concerns have been raised about the “assistance” given to elderly and infirm individuals in the completion of a request for an absentee or mail-in ballot and the actual receipt and marking of the ballot by the voter. While voter initiative should be the driving force behind any effort to vote, how that is accommodated requires further scrutiny, especially in the areas of supervision and security that also protect the confidentiality of the voter’s ballot. Possible procedures to ensure these areas will be explored further. Additionally, there is much concern about undue influence and the possibility of a person “requesting” a ballot who does not have the mental capacity to make that determination. On the other hand, an inability to verbally communicate should not be an automatic bar to a person exercising their civil rights. Pennsylvania does not constitutionally bar any groups of people from voting *per se*. Determinations of competency and the ability to delegate voting rights via guardianship or power of attorney are areas that staff is currently researching.

Determinations of Residency

Provisions regarding residency can be found in both the 1937 Election Code, at §§ 703 and 704, as well as in the Consolidated Statutes Election Code at 25 Pa.C.S. § 1302.

Residency is an issue in determining where homeless people, persons without a permanent residence, and college students are eligible to vote to avoid duplicate registration and/or voting. This is also an issue for persons living in alternative housing, halfway houses, shelters, day programs, partial hospitalization programs, and transitional living.

To the extent the provisions of the 1937 Code and Title 25 conflict, rules of statutory construction generally would favor the Consolidated Statute as having been enacted later in time. At a minimum, these provisions should be reconciled in Title 25 and repealed from the 1937 Code. Any desired changes to residence determination should then be made to Title 25. A codification of these provisions is in progress for approval by the ELAB in the fall.

*Statutory Authority
for Election Law Advisory Board*

PENNSYLVANIA ELECTION CODE - OMNIBUS AMENDMENTS
Act of Mar. 27, 2020, P.L. 41, No. 12 Cl. 25
Session of 2020
No. 2020-12

**ARTICLE XIII-E
PENNSYLVANIA ELECTION LAW ADVISORY BOARD**

Section 1301-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Pennsylvania Election Law Advisory Board established under section 1302-E(a).

Section 1302-E. Pennsylvania Election Law Advisory Board.

(a) Establishment.--The Pennsylvania Election Law Advisory Board is established within the Joint State Government Commission.

(b) Members.--The board shall be comprised of the following members:

- (1) The Secretary of the Commonwealth or a designee.
- (2) The President pro tempore of the Senate or a designee.
- (3) The Minority Leader of the Senate or a designee.
- (4) The Speaker of the House of Representatives or a designee.
- (5) The Minority Leader of the House of Representatives or a designee.
- (6) One member from each congressional district, of whom no more than half may be registered with the same political party, appointed by the Governor and confirmed by the Senate and which shall include members who:
 - (i) represent groups advocating for individuals with disabilities;
 - (ii) represent groups advocating for voting rights; and
 - (iii) represent county commissioners or county election officials.

- (c) Duties.--The board shall have the following duties:
- (1) Study this act and identify statutory language to repeal, modify or update.
 - (2) Collaborate with other agencies and political subdivisions of the Commonwealth to study election-related issues.
 - (3) Study the development of new election technology and voting machines.
 - (4) Evaluate and make recommendations on:
 - (i) improving the electoral process in this Commonwealth by amending this act or through regulations promulgated by the Department of State; and
 - (ii) implementing best practices identified to ensure the integrity and efficiency of the electoral process in this Commonwealth.
 - (5) By the end of each fiscal year, publish extensive and detailed findings on the Joint State Government Commission's publicly accessible Internet website and make them available in electronic format to the Office of the Governor and members of the General Assembly.
- (d) Quorum.--A majority of appointed members shall constitute a quorum for the purpose of conducting business.
- (e) Chairperson and vice chairperson.--The members shall select a member to be chairperson and another member to be vice chairperson.
- (f) Transparency and ethics.--The board shall be subject to the following laws:
- (1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.
 - (2) The act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.
 - (3) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
 - (4) 65 Pa.C.S. Ch. 7 (relating to open meetings).
- (g) Information gathering.--The board may conduct hearings and otherwise gather relevant information and analysis that it considers appropriate and necessary to fulfill its duties.
- (h) Reimbursement.--Members of the board shall be reimbursed for reasonable expenses.