



**Testimony for the
Senate Education, Health and Environmental Affairs Committee
February 21, 2013**

**SB 518 – Elective Franchise – Registration and Voting at Polling Places
Support**

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LIBERTIES UNION
OF MARYLAND

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The ACLU of Maryland supports SB 518, which proposes to amend the Maryland constitution to permit election day registration and same day registration.

The ACLU of Maryland discourages frequent amendment of our constitution. This bill, however, proposes an amendment that strengthens fundamental rights already guaranteed by the constitution and Declaration of Rights without upsetting the delicate balance of powers achieved by the constitution and without interfering with the liberties and rights established by the constitution and Declaration of Rights. Strengthening the right to vote is an appropriate subject for a constitutional amendment. The ultimate decision lies with the people who should have the opportunity to approve or reject it at the ballot box.

The vote is the defining act of citizenship. As a democracy, we should encourage all eligible voters to avail themselves of the franchise. And in so doing, we should make the act of voting itself available to all eligible voters. Election Day Registration and Same Day Registration accomplish this goal.

Election Day Registration

The ACLU of Maryland supports Election Day Registration (EDR) because it would remove barriers to voting that we have found in our election protection work that disenfranchise eligible voters.

The ACLU of Maryland has long fought all forms of voting discrimination. We lead an election protection program for every statewide and presidential election that includes responding to and documenting voters' calls and problems encountered during the election. Many of the problems voters encounter on Election Day relate to voter registration and provisional ballots. Eligible voters who believe they have registered do not show up on the poll books and must vote a provisional ballot. Voters who are entitled to cast a regular ballot are erroneously required to cast a provisional ballot due to errors in the registration lists or misinformed election judges; voters who are entitled to cast a provisional ballot are denied the provisional ballot. We also have found errors in the handling of provisional ballots. For instance, in the 2010 election, some polling sites were using incomplete provisional ballots with pages missing. In all of these instances, eligible voters are disenfranchised. Adopting Election Day registration would essentially eliminate these sources of voter disenfranchisement.

Furthermore, we live in a mobile society. People move, and when they move they

must update their voter registration in order to vote. As Demos has noted, “The freedom to vote is a cornerstone of American democracy. Voting brings us together as Americans and it is the one time we have an equal voice in the decisions that impact our lives and community. And yet, every year, millions of eligible voters fall through the cracks because they have moved sometime in the last year.”¹ People of color, the young and low income people are the most likely to move.² EDR will allow those who have moved to register and vote where they now reside.

Another benefit of EDR is that the need for provisional ballots is largely eliminated. Eligible voters who do not appear in the poll books can register on Election Day and cast a regular ballot. A DEMOS analysis of the 2006 election corroborates this conclusion. It revealed that over one-third of the problems with provisional ballots involved voters being denied a provisional ballot when they were entitled to one or forced to vote a provisional ballot when they were entitled to vote a regular ballot; 40% of the provisional ballot problems had to do with errors in the voter registration lists. EDR is one DEMOS recommendation for addressing ongoing problems with voter registration lists and provisional ballots.

EDR is cost-effective and easier for elections officials to administer than provisional ballots.

Although opposition to EDR includes concerns about cost, logistics and voter fraud, we note at the outset that any implementing legislation can be crafted with the State Board of Elections and local election officials to address these concerns. However, before Maryland can design an effective EDR program, we must amend our constitution to permit it. This bill is simply such enabling legislation. We urge the committee to keep this in mind in considering the bill and to issue a favorable report to permit Maryland to consider EDR implementation legislation.

A DEMOS study indicates that elections are no more expensive to administer in EDR states than elsewhere.³ Most respondents to a 2007 telephone survey of local election officials in the EDR states of Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming described the incremental cost of EDR as minimal.⁴ Non-EDR states are also far more likely to distribute large numbers of provisional ballots. According to Wisconsin’s elections director, his state’s ability to avoid provisional balloting “alone makes EDR worthwhile.”⁵

EDR is cost-effective because cost centers are shifted with EDR, rather than increased. Wisconsin election officials explained to the Maryland legislature in January of 2011 that the need for increased staff before the close of registration to

¹ <http://www.demos.org/publication/democracy-mobile-america-0>

² *Id.*

³ <http://www.demos.org/publication/same-day-registration-maryland> at n. 21 citing Michael Alvarez, Stephen Ansolabehere, and Catherine Wilson, *Election Day Voter Registration in the United States: How One-Step Voting Can Change the Composition of the American Electorate* (Caltech/MIT, June 2002), http://www.vote.caltech.edu/media/documents/wps/vtp_wp5.pdf.

⁴ Demos, *Election Day Registration: A Ground-Level View* (November 2007).

⁵ “Voters Win With Same Day Registration,” <http://www.demos.org/publication/voters-win-same-day-registration> at 5.

handle the push to accurately process registration applications before Election Day is reduced. Staff on Election Day designated under the current system to handle provisional ballots can be dedicated instead to handling Election Day registration. Existing resources handle the processing of registrations after Election Day.

No Evidence of Voter Fraud.

EDR does not encourage voter fraud. A bi-partisan team of consultants to the Election Assistance Commission reported widespread agreement that very little evidence existed of voter impersonation at the polls.⁶ An analysis of 2002-2005 data from EDR states also found very little evidence of voter fraud.⁷ And the great majority of local elections officials participating in a 2007 survey in Election Day Registration states rated current fraud prevention measures sufficient to protect the integrity of elections.⁸

Election Day registration complements the early voting initiative already undertaken by the legislature. It makes sense for Maryland to have election day registration as an option as continues early voting and a voting system change so that Maryland can continue to fulfill its commitment to removing artificial barriers to full enfranchisement.

Same Day Registration

SB 518 would also amend the Maryland constitution to ensure that Maryland can enact same day registration (SDR) enabling legislation, setting out the parameters by which Marylanders can register to vote during early voting. The ACLU of Maryland supports SDR in addition to EDR.

Early voting was a tremendous success in Maryland in 2012. The State Board of Elections estimated that 16 percent of all ballots were cast during early voting. By including SDR as part of the early voting process, Maryland can further boost voter participation. For all the reasons we mentioned above for EDR, we support SDR.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 518.

⁶ United States Election Assistance Commission, *Status Report to the Voter Fraud-Voter Intimidation Research Project*, May 17, 2006.

⁷ *Voters Win*. . . at n. 25 citing Lorraine C. Minnite, *Election Day Registration: A Study of Voter Fraud and Findings on Voter Roll Security* (Demos, August 2007)

⁸ See Dēmos, *Election Day Registration: A Ground-Level View* (November 2007)