

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 895 Session of 2021

INTRODUCED BY GAINNEY, HILL-EVANS, SANCHEZ, MADDEN, BURGOS,
HOHENSTEIN, KINKEAD, FRANKEL, GALLOWAY, SCHWEYER, SIMS,
DELLOSO, WARREN AND ISAACSON, MARCH 15, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 15, 2021

AN ACT

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

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

20 Section 1. Section 1301-D of the act of June 3, 1937
21 (P.L.1333, No.320), known as the Pennsylvania Election Code,
22 amended or added October 31, 2019 (P.L.552, No.77) and March 27,
23 2020 (P.L.41, No.12), is amended to read:

24 Section 1301-D. [Qualified mail-in electors] Automatic issuance
25 of mail-in ballots.

1 (a) General rule.--[A qualified mail-in elector shall be
2 entitled to vote by an official mail-in ballot in any primary or
3 election held in this Commonwealth in the manner provided under
4 this article.]

5 (b) Construction.--The term "qualified mail-in elector"
6 shall not be construed to include a person not otherwise
7 qualified as a qualified elector in accordance with the
8 definition in section 102(t).] The county board of elections
9 shall provide an official mail-in ballot to each qualified
10 registered elector prior to any primary or election held in this
11 Commonwealth in the manner provided under this article.

12 (b) Qualified mail-in elector.--Any qualified registered
13 elector shall be entitled to vote by an official mail-in ballot
14 in any primary or election held in this Commonwealth in the
15 manner provided under this article.

16 Section 2. Sections 1302-D, 1302.1-D and 1302.2-D of the act
17 are repealed:

18 [Section 1302-D. Applications for official mail-in ballots.]

19 (a) General rule.--A qualified elector under section 1301-D
20 may apply at any time before any primary or election for an
21 official mail-in ballot in person or on any official county
22 board of election form addressed to the Secretary of the
23 Commonwealth or the county board of election of the county in
24 which the qualified elector's voting residence is located.

25 (b) Content.--The following shall apply:

26 (1) The qualified elector's application shall contain
27 the following information:

28 (i) Date of birth.

29 (ii) Length of time a resident of voting district.

30 (iii) Voting district, if known.

1 (iv) Party choice in case of primary.

2 (v) Name.

3 (2) A qualified elector shall, in addition, specify the
4 address to which the ballot is to be sent, the relationship
5 where necessary and other information as may be determined by
6 the Secretary of the Commonwealth.

7 (3) When an application is received by the Secretary of
8 the Commonwealth it shall be forwarded to the proper county
9 board of election.

10 (c) Signature required.--Except as provided in subsection
11 (d), the application of a qualified elector under section 1301-D
12 for an official mail-in ballot in any primary or election shall
13 be signed by the applicant.

14 (d) Signature not required.--If any elector entitled to a
15 mail-in ballot under this section is unable to sign the
16 application because of illness or physical disability, the
17 elector shall be excused from signing upon making a statement
18 which shall be witnessed by one adult person in substantially
19 the following form:

20 I hereby state that I am unable to sign my application
21 for a mail-in ballot without assistance because I am
22 unable to write by reason of my illness or physical
23 disability. I have made or have received assistance in
24 making my mark in lieu of my signature.

25 (Mark)

26 (Date)

27 (Complete Address of Witness)

28 (Signature of Witness)

29 (e) Numbering.--The county board of elections shall number,
30 in chronological order, the applications for an official mail-in

1 ballot, which number shall likewise appear on the official mail-
2 in ballot for the qualified elector. The numbers shall appear
3 legibly and in a conspicuous place but, before the ballots are
4 distributed, the number on the ballot shall be torn off by the
5 county board of election. The number information shall be
6 appropriately inserted and become a part of the Registered
7 Absentee and Mail-in Voters File provided under section 1302.3.

8 (f) Form.--Application for an official mail-in ballot shall
9 be on physical and electronic forms prescribed by the Secretary
10 of the Commonwealth. The application shall state that a voter
11 who applies for a mail-in ballot under section 1301-D shall not
12 be eligible to vote at a polling place on election day unless
13 the elector brings the elector's mail-in ballot to the elector's
14 polling place, remits the ballot and the envelope containing the
15 declaration of the elector to the judge of elections to be
16 spoiled and signs a statement subject to the penalties under 18
17 Pa.C.S. § 4904 (relating to unsworn falsification to
18 authorities) to the same effect. The physical application forms
19 shall be made freely available to the public at county board of
20 elections, municipal buildings and at other locations designated
21 by the Secretary of the Commonwealth. The electronic application
22 forms shall be made freely available to the public through
23 publicly accessible means. No written application or personal
24 request shall be necessary to receive or access the application
25 forms. Copies and records of all completed physical and
26 electronic applications for official mail-in ballots shall be
27 retained by the county board of elections.

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

29 (1) Any qualified registered elector may request to be
30 placed on a permanent mail-in ballot list file at any time

1 during the calendar year. A mail-in ballot application shall
2 be mailed to every person otherwise eligible to receive a
3 mail-in ballot application by the first Monday in February
4 each year or within 48 hours of receipt of the request,
5 whichever is later, so long as the person does not lose the
6 person's voting rights by failure to vote as otherwise
7 required by this act. A mail-in ballot application mailed to
8 an elector under this section, which is completed and timely
9 returned by the elector, shall serve as an application for
10 any and all primary, general or special elections to be held
11 in the remainder of that calendar year and for all special
12 elections to be held before the third Monday in February of
13 the succeeding year.

14 (2) The Secretary of the Commonwealth may develop an
15 electronic system through which all qualified electors may
16 apply for a mail-in ballot and request permanent mail-in
17 voter status under this section, provided the system is able
18 to capture a digitized or electronic signature of the
19 applicant. A county board of elections shall treat an
20 application or request received through the electronic system
21 as if the application or request had been submitted on a
22 paper form or any other format used by the county.

23 (3) The transfer of a qualified registered elector on a
24 permanent mail-in voting list from one county to another
25 county shall only be permitted upon the request of the
26 qualified registered elector.

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

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

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

8 (b) Early applications.--In the case of an elector whose
9 application for a mail-in ballot is received by the office of
10 the county board of elections earlier than 50 days before the
11 primary or election, the application shall be held and processed
12 upon commencement of the 50-day period or at such earlier time
13 as the county board of elections determines may be appropriate.

14 Section 1302.2-D. Approval of application for mail-in ballot.

15 (a) Approval process.--The county board of elections, upon
16 receipt of any application of a qualified elector under section
17 1301-D, shall determine the qualifications of the applicant by
18 verifying the proof of identification and comparing the
19 information provided on the application with the information
20 contained on the applicant's permanent registration card. The
21 following shall apply:

22 (1) If the board is satisfied that the applicant is
23 qualified to receive an official mail-in ballot, the
24 application shall be marked "approved."

25 (2) The approval decision shall be final and binding,
26 except that challenges may be made only on the grounds that
27 the applicant was not a qualified elector.

28 (3) Challenges must be made to the county board of
29 elections prior to five o'clock p.m. on the Friday prior to
30 the election: Provided, however, That a challenge to an

1 application for a mail-in ballot shall not be permitted on
2 the grounds that the elector used an application for a mail-
3 in ballot instead of an application for an absentee ballot or
4 on the grounds that the elector used an application for an
5 absentee ballot instead of an application for a mail-in
6 ballot.

7 (4) When approved, the registration commission shall
8 cause a mail-in voter's record to be inserted in the district
9 register as prescribed by the Secretary of the Commonwealth.

10 (b) Duties of county boards of elections and registration
11 commissions.--The duties of the county boards of elections and
12 the registration commissions with respect to the insertion of
13 the mail-in voter's record shall include only the applications
14 as are received on or before the first Tuesday prior to the
15 primary or election.

16 (c) Notice.--In the event that an application for an
17 official mail-in ballot is not approved by the county board of
18 elections, the elector shall be notified immediately with a
19 statement by the county board of the reasons for the
20 disapproval. For applicants whose proof of identification was
21 not provided with the application or could not be verified by
22 the board, the board shall send notice to the elector with the
23 mail-in ballot requiring the elector to provide proof of
24 identification with the mail-in ballot or the ballot will not be
25 counted.]

26 Section 3. Sections 1305-D, 1306-D and 1307-D of the act,
27 amended or added October 31, 2019 (P.L.552, No.77) and March 27,
28 2020 (P.L.41, No.12), are amended to read:

29 Section 1305-D. Delivering or mailing ballots.

30 The county board of elections[, upon receipt and approval of

1 an application filed by a qualified elector under section 1301-
2 D,] shall commence to deliver or mail official mail-in ballots
3 [as soon as a ballot is certified and the ballots are available]
4 60 days prior to the scheduled primary or election. While any
5 proceeding is pending in a Federal or State court which would
6 affect the contents of any ballot, the county board of elections
7 may await a resolution of that proceeding but in any event,
8 shall commence to deliver or mail official mail-in ballots not
9 later than the second Tuesday prior to the primary or election.
10 [For applicants whose proof of identification was not provided
11 with the application or could not be verified by the board, the
12 board shall send the notice required under section 1302.2-D(c)
13 with the mail-in ballot. As additional applications are received
14 and approved, the board shall deliver or mail official mail-in
15 ballots to the additional electors within 48 hours.]

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

17 (a) General rule.--At any time after receiving an official
18 mail-in ballot, but on or before eight o'clock P.M. the day of
19 the primary or election, the mail-in elector shall, in secret,
20 proceed to mark the ballot only in black lead pencil, indelible
21 pencil or blue, black or blue-black ink, in fountain pen or ball
22 point pen, and then fold the ballot, enclose and securely seal
23 the same in the envelope on which is printed, stamped or
24 endorsed "Official Election Ballot." This envelope shall then be
25 placed in the second one, on which is printed the form of
26 declaration of the elector, and the address of the elector's
27 county board of election and the local election district of the
28 elector. The elector shall then fill out, date and sign the
29 declaration printed on such envelope. Such envelope shall then
30 be securely sealed and the elector [shall send same by mail,

1 postage prepaid, except where franked, or deliver it in person
2 to said county board of election.] may:

3 (1) send the envelope by mail, except where franked;

4 (2) deliver the envelope in person to the county board
5 of election, to a ballot drop-box provided by the county
6 board of election or to the individual's polling place on
7 election day; or

8 (3) destroy the envelope and cast the elector's vote in
9 person at the elector's polling place on election day.

10 (a.1) Signature.--Any elector who is unable to sign the
11 declaration because of illness or physical disability, shall be
12 excused from signing upon making a declaration which shall be
13 witnessed by one adult person in substantially the following
14 form:

15 I hereby declare that I am unable to sign my declaration
16 for voting my mail-in ballot without assistance because I
17 am unable to write by reason of my illness or physical
18 disability. I have made or received assistance in making
19 my mark in lieu of my signature.

20 (Mark)

21 (Date)

22 (Complete Address of Witness)

23 (Signature of Witness)

24 (b) Eligibility.--

25 (1) Any elector who receives and votes a mail-in ballot
26 under [section 1301-D] this article shall not be eligible to
27 vote at a polling place on election day. The district
28 register at each polling place shall clearly identify
29 electors who have received and voted mail-in ballots as
30 ineligible to vote at the polling place, and district

1 election officers shall not permit electors who voted a mail-
2 in ballot to vote at the polling place.

3 (2) An elector who requests a mail-in ballot and who is
4 not shown on the district register as having voted may vote
5 [by provisional ballot under section 1210(a.4) (1)] in person
6 at the elector's polling place on election day.

7 (3) Notwithstanding paragraph (2), an elector who
8 requests a mail-in ballot and who is not shown on the
9 district register as having voted the ballot may vote at the
10 polling place if the elector remits the ballot and the
11 envelope containing the declaration of the elector to the
12 judge of elections to be spoiled and the elector signs a
13 statement subject to the penalties of 18 Pa.C.S. § 4904
14 (relating to unsworn falsification to authorities) which
15 shall be in substantially the following form:

16 I hereby declare that I am a qualified registered elector
17 who has obtained an absentee ballot or mail-in ballot. I
18 further declare that I have not cast my absentee ballot or
19 mail-in ballot, and that instead I remitted my absentee
20 ballot or mail-in ballot to the judge of elections at my
21 polling place to be spoiled and therefore request that my
22 absentee ballot or mail-in ballot be voided.

23 (Date)

24 (Signature of Elector).....(Address of Elector)

25 (Local Judge of Elections)

26 (c) Deadline.--Except as provided under 25 Pa.C.S. § 3511
27 (relating to receipt of voted ballot), a completed mail-in
28 ballot must be received in the office of the county board of
29 elections no later than eight o'clock P.M. on the day of the
30 primary or election.

1 Section 1307-D. Public records.

2 (a) General rule.--All official mail-in ballots, files[,
3 applications for ballots] and envelopes on which the executed
4 declarations appear and all information and lists are designated
5 and declared to be public records and shall be safely kept for a
6 period of two years, except that no proof of identification
7 shall be made public, nor shall information concerning a
8 military elector be made public which is expressly forbidden by
9 the Department of Defense because of military security.

10 (b) Record.--For each election, the county board shall
11 maintain a record of the following information, if applicable,
12 for each elector who makes application for a mail-in ballot:

13 (1) The elector's name and voter registration address.

14 [(2) The date on which the elector's application is
15 received by the county board.]

16 [(3) The date on which the elector's application is
17 approved or rejected by the county board.]

18 (4) The date on which the county board mails or delivers
19 the mail-in ballot to the elector.

20 (5) The date on which the elector's completed mail-in
21 ballot is received by the county board.

22 (c) Compilation.--The county board shall compile the records
23 listed under subsection (b) and make the records publicly
24 available upon request within 48 hours of the request.

25 Section 4. This act shall apply to elections held 100 days
26 or later after the effective date of this section.

27 Section 5. This act shall take effect immediately.