

## Pollwatching Laws in Maryland

Maryland law states that pollwatchers have the right to do the following (Maryland Code §10-311 as of September 2004):

- *Enter the polling place one-half hour before the polls open (election officials are encouraged to allow challengers and watcher to enter earlier if preparations for the opening of the polls begins earlier);*
- *Enter or be present at the polling place at any time when the polls are open;*
- *Remain in the polling place until the completion of all tasks associated with the close of the polls under Election Law Article §10-314 and the election judges leave the polling place;*
- *Maintain a list of registered voters who have voted, or individuals who have cast provisional ballots, and take the list outside of the polling place; and*
- *Enter and leave a polling place for the purpose of taking outside of the polling place information that identifies registered voters who have cast ballots or individuals who have cast provisional ballots; and*
- *Be positioned near the election judges so that the challenger and watcher may see and hear each voter as the voter checks in to vote.*

However, Maryland law also states that a challenger and watcher may not attempt to:

- *Ascertain how a voter voted or intends to vote;*
- *Converse in the polling place with any voter;*
- *Assist any voter in voting; or*
- *Physically handle an original election document.*

*An election judge may eject a challenger or watcher who violates the prohibitions of law or the order of the election judge.*

Maryland regulations (COMAR 33.07.04.02) prohibit cameras and audible electronic devices such as cellular telephones and pagers in the polling place during Election Day. This prohibition applies to challengers and watchers.

Maryland Code §10-303 states that election judges must protect challengers and watchers:

- *An election judge shall protect a challenger or watcher in the exercise of the rights of a challenger or watcher as provided in § 10-311 of this subtitle.*
- *An election judge is not required to admit a challenger or watcher to a polling place before the polls open if the challenger or watcher was not present at the polling place at least one-half hour before its opening.*
- *An election judge may require challengers and watchers to leave a polling place before it opens if a majority of the election judges present agrees that the presence of the challengers and watchers will prevent the timely opening of the polling place.*
- *An election judge shall designate reasonable times for challengers and watchers to examine polling lists.*

*Additionally, under §10-304, "A police officer who is on duty at a polling place shall protect a challenger or watcher in the discharge of the duties of the challenger or watcher."*

## Avoiding difficult situations, and handling those you can't avoid...

Our run-down of the laws regarding pollwatching tells you what the general legal parameters are. It's a good idea to keep your copy of them handy so that if an official or a voter needs to be reminded of the law under which you're operating, you can do so with complete confidence.

Tense situations of all kinds escalate most of the time because people wrongly assume that any question or any statement of fact by another, especially if incorrect, requires a response. It doesn't. Nobody's scriptures say, "Never let the other guy get the last word. Never miss a chance to correct the ignorant." Standing up for what you believe doesn't mean never allowing people to learn without your assistance.

However, if the person making the request or statement seems honestly misinformed, it would be polite to let them know that by saying, "Perhaps someone else has made a mistake in the information they gave you. We're operating under the Maryland Code of Election Regulations. I have a copy of the regulations right here. Would you like to see it?" Or, "Actually we are not here to represent any candidate or party. We're here to represent the concern of a large number of voters of all parties that the electronic voting machines have serious problems that have not been addressed."

If an election official makes a request or issues an order that ignores your rights under the law, you should not simply ignore it. Instead, "I'm sorry to disagree with you, but according to the Maryland State Code on elections I have a right to do what I'm doing. I'm sure you don't intend to violate the law, so there must be some mistake. I have a copy of the COMAR rules on elections here, if you don't have your own copy with you. Would you like to see it?"

There are only three options for an election official at this point: (a) accepting the legitimacy of your statement, perhaps after going away to first check the manual; b) verbal coercion, such as arguing that the COMAR (Code of Maryland Regulations) is irrelevant since it is superseded by the election manual, or threatening to call the police; (c) some kind of direct physical coercion--twisting your arm or throwing tennis balls at you; and (d) actually calling the police.

A, B, and C are all self-limiting outcomes, and so nothing for you to worry about. D, on the other hand, is why you want to bring an extra package of cool along with you to the polls, just in case. While it is highly unlikely, it is just within the bounds of possibility that an election official will be so frazzled by so many things you know nothing about that he feels the need to call the police to insist that you are disturbing the peace by refusing to accept a lawful order to \_\_\_\_\_. In which case the officer will be more likely to take the election official at his word than to take you at yours.

Should you be confronted by a police officer, you may or may not have an opportunity to explain why you refused the election official's order to move or stop or turn around thrice or whatever. If you have the opportunity: "Officer what I'm doing here is consistent with the Maryland law, a copy of which I have with me. Please look at it. Or if you prefer, here's the number of one of our lawyers, who can explain to you the mistake that the official is making in asking us to \_\_\_\_\_."

Chances are the police officer doesn't want to make an arrest (all that paperwork, and maybe a post-election gripe). Chances are the officer will instead simply tell you to "move on." While this order may have the effect of denying your rights, it changes the context just enough to cause you a lot of hassle. If you don't move on, you've supposedly violated a lawful police order. That the police order isn't lawful tends to get ignored in many places. The best thing under those circumstances is to move away far enough to satisfy the officer, then call TrueVoteMD. Our lawyer will call the police and establish your right to return to what you were doing.

This level of trouble is highly unlikely. In any case, your demeanor when confronted by an election official or anyone else, while not necessarily the ultimate controlling factor, is your strongest suit in the game. If you always err on the side of extreme respect for official authority, refusal to get baited into an argument, and always state what you're doing and the law you're operating under in calm, unemotional tones, you will minimize the chances that someone else's frustrations will make you a target.