



HOUSE BILL 770: Cast Vote Records.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	September 19, 2023
Introduced by:	Reps. Davis, Cleveland, Mills, Warren	Prepared by:	Jessica Sammons, Erika Churchill, and William Brewer,
Analysis of:	Second Edition		Staff Attorneys

OVERVIEW: *House Bill 770 would require voting systems to create cast vote records and authorize access to cast vote records when a public records request is filed.*

CURRENT LAW:

Access to Voted Ballots:

Generally, voted ballots and paper and electronic records associated with the voted ballots are confidential, with only election officials performing their duties having access. Others may have access to voted ballots and paper or electronic records of individual voted ballots pursuant to an order of the court or pursuant to an order of a board of elections as part of the resolution of an election protest or an investigation of an alleged election irregularity or violation. If the voted ballots and paper and electronic records of individual voted ballots are disclosed, the documents must not include any information regarding how a particular voter voted unless a court order provides otherwise. It is a Class 1 misdemeanor for any person who has access to those documents to disclose how an individual voted. G.S. 163-165.1.

Each county board of elections is to maintain voting data by voting precinct. In reporting returns, the county board of elections is not to compromise the secrecy of an individual's ballot. G.S. 163-132.5G.

Voting Systems:

G.S. 163-165.7(a) provides that only voting systems that have been certified by the State Board of Elections (State Board) that meet certain standards and have not been subsequently decertified may be used in elections. One of the required standards is that electronic voting systems must generate a paper ballot which provides a backup means of counting the vote that the voter casts. To be certified for use in North Carolina, direct record electronic (DRE) voting systems must also generate a paper ballot that is viewable by the voter before the vote is cast electronically and permit the voter to correct any discrepancy between the electronic vote and the paper ballot before the vote is cast.

G.S. 163-165(1) defines a ballot as "an instrument on which a voter indicates that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal, and is evidenced by an individual paper document that bears marks made by the voter by hand or through electronic means, whether preprinted or printed in the voting enclosure."

G.S. 163-165.4C prohibits the use of a voting system that does not use or produce a paper ballot in any referendum, primary, or other election as a means of voting or counting an official ballot.

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BILL ANALYSIS:

The bill would do the following:

- Require cast vote records to be created. A "cast vote record" would be defined as a de-identified electronic record of voter's choices for each ballot item. The cast vote records would be electronically created on a ballot tabulation machine.
- Provide that cast vote records are a public record.
- Require voting systems to support the creation of a cast vote record, effective January 1, 2024, for counties that use voting equipment capable of creating cast vote records, and July 1, 2024, for all other counties, and applies to elections held on or after that date.

EFFECTIVE DATE: Except as otherwise provided, effective January 1, 2024.