



# HOUSE BILL 772: Poll Observer Appointments, Access & Activity.

2023-2024 General Assembly

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<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	June 21, 2023
<b>Introduced by:</b>	Reps. Davis, Cleveland, Mills, Warren	<b>Prepared by:</b>	Jessica Sammons
<b>Analysis of:</b>	First Edition		Staff Attorney

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**OVERVIEW:** *House Bill 772 would modify the process for appointing political party observers at the polls; specify actions observers are entitled to take at each voting place; allow observers to have designated chairs to use at each voting enclosure; and modify the definition of "voting enclosure" to include vehicle compartments containing voters at curbside voting.*

**CURRENT LAW:** A voting place is defined as the building or area of the building that contains the voting enclosure; electioneering may occur outside the voting place but not within it or within 50 feet of the entrance. The voting enclosure is the room within the voting place that is used for voting, and access to the voting enclosure is restricted to the following: (1) a voter seeking to vote in that voting place on that day, but only while in the process of voting or seeking to vote; (2) election officials, appointed observers, and appointed runners; (3) a registered voter from that precinct while entering or explaining a challenge; (4) a person authorized to assist a voter, but only while assisting that voter; (5) minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and under the control of the voter; (6) persons conducting or participating in an approved simulated election within the voting place or voting enclosure; and (7) any other person determined by election officials to have an urgent need to enter the voting enclosure, but only to the extent necessary to address that need. The voting enclosure must contain enough private spaces for voters to mark ballots in secret, space for the registration table, ballot table, and help desk table, and a telephone for communication with the county board of elections. With the exception of security cameras of a facility that is a voting place, no person may photograph, videotape, or otherwise record the image of any voter within the voting enclosure unless the permission of both the voter and the chief judge of the precinct is obtained. If the voter is a candidate, only the permission of the voter is required. No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted by law.

With respect to appointed observers, no candidate on the ballot in a primary or election may serve as an observer, and the General Statutes provide for the following categories of appointed observers:

- **ABC election observers.** The proponents and opponents for an alcoholic beverage election, as determined by the local board of elections, may appoint two observers to attend each voting place. Observers must be registered voters of the precinct to which appointed, and must be named in writing to the chief judge of the precinct at least 3 days before the election. The chief judge and judges for the precinct may, for good cause, reject any named observer and require that another be appointed. Observers may not engage in electioneering at the voting place, and may not in any manner impede the voting process, interfere or communicate with or observe any voter in casting a ballot. Observers must be allowed in the voting place to make observations and to take notes as desired.

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- Unaffiliated candidate observers. In an election in which an unaffiliated candidate is on the ballot, the unaffiliated candidate, or his or her campaign manager, may designate two observers to attend each voting place.
- Political party observers, as discussed below. The county chair of each political party may designate two observers to attend each voting place at each primary and general election, as well as up to 10 additional at-large observers who are residents of that county who may attend any voting place in that county. Additionally, the State chair of each political party in the State may designate up to 100 additional State at-large observers, who can attend any voting location in the State. The right to designate observers does not extend to a political party during a primary unless that party is participating in that primary. Not more than two observers from the same political party are permitted in the voting enclosure at the same time, except that one of the at-large observers from each party may also be in the voting enclosure. Currently, there are three recognized political parties for this purpose – Democrat, Libertarian, and Republican.

With respect to political party observers, a list of all the names of observers must be filed with specified individuals depending upon the type of observer, as follows:

- County Precinct-Specific Observers - Each county party chair must provide the chief judge and the chair of the county board of elections with a signed list of individuals designated as observers by 10:00 A.M. five days before an election. The chair of the county board of elections must provide the chief judge with a list of observers before the opening of polls. The individuals designated as observers must be registered voters of the county and have good moral character.
- County At-large Observers - Each county party chair must provide the county director of elections and the chair of the county board of elections with a signed list of individuals designated as observers before 10:00 A.M. five days before an election. The county director of elections must provide the chief judge with a copy before the opening of polls. The individuals designated as observers must be registered voters of the county and have good moral character.
- State At-large Observers - Each State party chair must provide the county director of elections and the chair of the county board of elections with a signed list of individuals designated as observers by 10:00 A.M. five days before an election. The county director of elections must provide the chief judge with a list of observers before the opening of polls. The individuals designated as observers must be registered voters of the State and have good moral character.

The chair of the county board of elections, or the chief judge and judges for each affected precinct, may for good cause reject any observer and require that another be appointed. Observers may be appointed at early voting one-stop sites, and at-large observers may serve at any early voting one-stop site. The party chair may relieve an observer during the day after serving a minimum of four hours, provided all names are included on the list the chair of the political party is required to file. The chief judge and judges of elections must permit the observer to make observations and take notes. Observers may not do any of the following:

- Engage in electioneering at the voting place.
- Impede the voting process.
- Interfere or communicate with or observe any voter in casting a ballot.

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Political party observers may obtain a list of the persons who have voted in the precinct that election day. This is to occur at times specified by the State Board, but not less than three times each election day with the spacing not less than one hour apart. Runners may also be sent by the county party chair for this purpose, even if an observer has not been appointed for that precinct.

The county chair of a political party may also appoint an observer or runner to receive a list of voters in that precinct on election day. A complete list of runners must be provided to the county board of elections before 10:00 A.M. on the fifth day before the election. Each party is only entitled to one voter list at each scheduled time.

## **BILL ANALYSIS:**

**Section 1** would do the following:

- Amend the process for appointing political party observers. County or State political party chairs would submit a list of individuals designated as observers electronically or in writing to the county director of elections by 10:00 A.M. on the fifth day before the observer is to serve. The county director of elections would send the list of political party observers for each voting location and the at-large observers to the chief judge and site supervisor for that voting location before the opening of the voting place on the day of the election. The bill does not specify who is a site supervisor.
- Allow the State Board to require political party observers to wear identification tags for ease of recognition by voters and elections officials.
- Permit an observer to electioneer at the voting place, but not at the voting enclosure.
- Authorize election observers to do any of the following:
  - Move freely around the voting enclosure and the curbside voting area and hear conversations between poll workers and voters. The election observer would be specifically permitted to hear the voter reciting his or her name, provided that observers are 5 feet or more from the registration and ballot tables, tabulation machines, and vehicles at curbside voting and do not observe the voter's ballot markings.
  - Observe and record start-up and shut-down procedures, including the use of photographs or videos.
  - Inspect, count, and make an image or record of a completed Authorization to Vote (ATV) at any time polls are open. An ATV is used in some counties as an alternative to a poll book.
  - Observe the ballot boxes, emergency bin of a tabulation machine, and election machines in the voting enclosure.
  - Follow the chief judge or other precinct official transporting the ballot boxes from the voting location to their final destination following the closure of the polls.
  - Photograph or video record within the voting enclosure, as long as no voters or poll workers are in the image or video recording; make audio recordings of discussions between the observer and election officials at the voting location; and inspect, photograph, or video record the exterior of a tabulation machine at any time when no voter is using or waiting to use the tabulation machine.
  - Use electronic devices to take notes and communicate, but not to make or receive calls.

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- Provide that election observers may not interfere with the voting process by speaking with voters, viewing the ballot being marked, viewing confidential voter information, wearing or distributing campaign materials, or take photos or video of the voter without the voter's consent. Current law requires both the voter and chief judge of the precinct to consent to photographs unless the voter is a candidate.
- Restrict when an election observer may be removed, including requiring an observer to be issued a verbal or written warning for the first offense, a written report to be issued by the chief judge or site supervisor, and the appointing chair given an opportunity to immediately replace the removed observer. Citizens would not be prohibited from serving as poll observers without a hearing and due process.
- Allow observers to obtain a list of the persons who have voted that election day and all ATVs no less than three times each day with the spacing not less than three hours apart.
- Provide that any election official who restricts or denies access to an observer is guilty of a Class 1 misdemeanor.

**Sections 2 and 3** would amend the definition of "voting enclosure" to be the area within the voting location that is used to complete the voting process, including any vehicle compartment containing one or more voters in the designated curbside voting area.

The bill would also require that the voting enclosure contain three chairs for each political party's observers to use, up to 9 nine chairs per voting enclosure if all three political parties appoint observers; this would not include chairs for ABC election observers or unaffiliated candidate observers.

**EFFECTIVE DATE:** Effective when it becomes law and applies to observers for elections held on or after that date.