

**Testimony of Adam Gitlin
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Before the
Senate Education, Health, and Environmental Affairs Committee
Maryland Senate**

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Thank you for having this hearing and allowing me to testify in support of SB 350, the Universal Voter Registration Act, Senator Roger Manno's effort to modernize voter registration in Maryland through automatic voter registration.

The Brennan Center for Justice at NYU School of Lawⁱ is a nonpartisan law and policy institute that seeks to improve our systems of democracy and justice. We work on a range of issues pertaining to voting rights and elections, including work to improve registration and the design of election materials, remove unnecessary barriers to participation, and make voting machines more secure and accessible. With respect to voter registration, in particular, we have published numerous studies and reports,ⁱⁱ and have successfully campaigned for reforms to modernize registration in states across the country.

We have worked to advance automatic registration since 2007,ⁱⁱⁱ through both legislative advocacy and education of the public through reports like the two appended to this testimony. *The Case for Automatic, Permanent Voter Registration* urges adoption of the four components of a permanent registration system, with automatic registration as its central plank.^{iv} *Automatic and Permanent Voter Registration: How It Works* provides in-depth answers explaining how states can use existing technology to implement automatic registration.^v

Automatic registration has two key components. The first is the transfer of voter registration information electronically, instead of through a paper registration form. The second is switching from an opt-in system to an opt-out system. This is a subtle, impactful change, and it has led to increased program-participation rates across numerous fields.^{vi} In an automatic registration system, everyone is offered an opportunity to decline; no one is registered against their will. Under Senator Manno's bill and Delegate Eric Luedtke's bill, HB 1007, Maryland would lead the nation as the first to enact automatic registration at social service agencies.

I. Why Pass Automatic Registration

The Committee should pass automatic registration because it will increase registration rates, improve the accuracy of the voter rolls, and save money.

First, automatic registration will boost registration rates because paperless transfer is easier and more reliable for voters and agency officials. After Maryland began transferring registration information between Motor Vehicles Administration (MVA) and the State Board of Elections (SBE) electronically in 2012, the registration rate was approximately 7 times what it was in the previous two year period and more than double its rate from 2007-2008.^{vii} This jump occurred because registration was seamlessly integrated into the underlying transaction, making

it near impossible to ignore obligations to provide registration services, and eliminating additional steps to transfer the information. For the same reasons, automatic registration at social service agencies would increase registration. SBE reported in 2015 that while over 220,000 new registrations came from MVA, only 665 came from social service agencies.^{viii}

Second, automatic registration will improve accuracy of the voter rolls: Paper forms, like those used by social service agencies, require reading often illegible handwriting and performing tedious data entry, both of which introduces errors to the rolls. Automatic registration would eliminate that problem by transferring voter information electronically. Many election officials have consistently reported to us that electronically transferred information leads to cleaner and more accurate rolls than a paper-based system.^{ix}

Third, automatic registration will save money. All the printing, deciphering, mailing, and data entry of paper forms cost time and money—costs that would be virtually eliminated for registrations coming from these social service agencies if they adopted automatic registration. For example, officials in four Washington counties reported saving \$.50 to \$2.00 per registration when the information was electronically transferred. Delaware has saved \$200,000 annually from electronic transfer at the DMV.^x

II. Important Components of an Automatic Registration System

Any automatic registration system should include several provisions for maximum impact and security:

- *Inclusion of a “lookback.”* Under a lookback, individuals with pre-existing records containing trustworthy information regarding voter eligibility, including citizenship status, are registered after election officials verify their eligibility and give them the opportunity to opt out of registration. Oregon estimated that automatic registration could add some 300,000 voters to its rolls by using the existing records of individuals who had previously visited DMV offices.^{xi} HB 1007 currently includes a lookback provision.
- *Protections against inadvertent registration.* There are multiple ways to keep ineligible voters off the rolls in a state with automatic registration, and automatic registration systems will be better than paper-based systems at ensuring that only eligible citizens are signed up.^{xii} The policy should nevertheless include effective safe-harbor provisions to protect people who may be registered by accident against negative legal consequences. Regular audits of the system can help identify and prevent problems.
- *Protections for confidentiality.* Automatic registration must give full force to existing state laws shielding from public disclosure information that belongs to people in certain protected groups, such as domestic violence survivors. We have studied the Maryland Safe at Home Address Confidentiality Program, and it is compatible with automatic registration.
- *Inclusion of a “hard stop.”* Legislation should provide that an agency transaction cannot be completed without the individual answering the voter-registration question. This is sometimes called a “hard stop,” because the transaction stops until the agency official gets a “yes” or a “no.”

III. Comparison of SB 350 and HB 1007

Both Sen. Manno’s bill and Del. Luedtke’s bill, introduced in the House, include the important building blocks of automatic registration. Both add designate agencies beyond MVA for participation, both require electronic transfer from those agencies to election officials, and both switch the presumption, from a person not being registered unless he or she takes affirmative steps to become registered, to the government registering the person unless he or she opts out.

SB 350 makes the switch using Oregon’s approach, by having agency officials collect the information needed to register voters during the transaction, and, in a postal notification after their interaction, allowing individuals to decline registration by checking a box and sending back a postcard.

HB 1007 makes the switch using California’s approach, by changing the way the voter-registration question is asked at the MVA or social service agency—instead of being asked whether he or she wants to register, an individual is told that, if eligible, he or she will be registered unless he or she declines.

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Automatically registering eligible voters at multiple state agencies would bring Maryland to the vanguard of democracy. I urge this body to move forward on automatic registration efforts, and to work with Delegate Luedtke to bring automatic registration to Maryland.

ⁱ This testimony has been prepared by a Center affiliated with New York University School of Law, but does not purport to present the school’s institutional views, if any.

ⁱⁱ MYRNA PEREZ, BRENNAN CTR. FOR JUSTICE, ELECTION INTEGRITY: A PRO-VOTER AGENDA (2016) *available at* https://www.brennancenter.org/sites/default/files/publications/Election_Integrity.pdf; HOLLY MALUK, MYRNA PEREZ, & LUCY ZHOU, VOTER REGISTRATION IN A DIGITAL AGE: 2015 UPDATE (2015), *available at* https://www.brennancenter.org/sites/default/files/publications/Voter_Registration_Digital_Age_2015.pdf; BRENNAN CTR. FOR JUSTICE, THE CASE FOR VOTER REGISTRATION MODERNIZATION (2013), *available at* <http://www.brennancenter.org/sites/default/files/publications/Case%20Voter%20Registration%20Modernization.pdf>; CHRISTOPHER PONOROFF, BRENNAN CTR. FOR JUSTICE, VOTER REGISTRATION IN A DIGITAL AGE 14 (Wendy Weiser ed., 2010), *available at* https://www.brennancenter.org/sites/default/files/legacy/Democracy/Paperless_Registration_FINAL.pdf.

ⁱⁱⁱ *See, e.g.*, BRENNAN CTR. FOR JUSTICE, THE CASE FOR AUTOMATIC, PERMANENT VOTER REGISTRATION (2015), *available at* https://www.brennancenter.org/sites/default/files/publications/Case_for_Automatic_Permanent_Voter_Registration.pdf; BRENNAN CTR. FOR JUSTICE, AUTOMATIC AND PERMANENT VOTER REGISTRATION: HOW IT WORKS (2015), *available at* http://www.brennancenter.org/sites/default/files/publications/Automatic_Permanent_Voter_Registration_How_It_Works.pdf; LAURA SEAGO, BRENNAN CTR. FOR JUSTICE, GOVERNMENT LISTS: HOW READY ARE THEY FOR AUTOMATIC REGISTRATION? (2009), *available at* <https://www.brennancenter.org/sites/default/files/publications/Government%20Lists.pdf>; RENEE PARADIS, BRENNAN CTR. FOR JUSTICE, PARTY AFFILIATION IN A SYSTEM OF AUTOMATIC REGISTRATION (2009), *available at* <https://www.brennancenter.org/sites/default/files/publications/VRM%20Party%20Affiliation.pdf>; LAURA SEAGO, AUTOMATIC REGISTRATION IN THE UNITED STATES: THE SELECTIVE SERVICE EXAMPLE (2009), *available at* <https://www.brennancenter.org/sites/default/files/legacy/publications/selective%20service.color.FINAL.pdf>.

^{iv} BRENNAN CTR. FOR JUSTICE, THE CASE FOR AUTOMATIC, PERMANENT VOTER REGISTRATION, *supra* note iii.

^v BRENNAN CTR. FOR JUSTICE, AUTOMATIC AND PERMANENT VOTER REGISTRATION: HOW IT WORKS (2015), , *supra* note iii.

^{vi} See, e.g., Alberto Abadie & Sebastian Gay, *The impact of presumed consent legislation on cadaveric organ donation: a cross-country study*, 25 J. HEALTH ECON. 599–620 (2006) (25-30% higher participation in organ-donation programs), available at <http://www.sciencedirect.com/science/article/pii/S016762960600004X>; J. Choi et al., *Defined Contribution Pensions: Plan Rules, Participant Decisions, and the Path of Least Resistance*, 16 TAX POLICY AND THE ECONOMY 67-114 (2002) (401(k) participation over 30 percentage points higher with automatic enrollment), available at <http://www.nber.org/papers/w8655.pdf>.

^{vii} MALUK ET AL., *supra* note ii, at 11.

^{viii} MD. STATE BD. OF ELECTIONS, VOTER REGISTRATION ACTIVITY ANNUAL SUMMARY (2015) http://www.elections.state.md.us/pdf/vrar/2015_year.pdf.

^{ix} PONOROFF, *supra* note ii, at 13, MALUK ET AL., *supra* note ii, at 8.

^x PONOROFF, *supra* note ii, at 12.

^{xi} Jonathan Brater, *How Oregon’s New Law Can Change Voter Registration*, Mar. 11, 2015, <https://www.brennancenter.org/blog/how-oregons-new-law-can-change-voter-registration>.

^{xii} See BRENNAN CTR. FOR JUSTICE, AUTOMATIC AND PERMANENT VOTER REGISTRATION: HOW IT WORKS (2015), , *supra* note iii, at 6-7.