

fraud “facilitated by absentee voting” (citing, *inter alia*, John C. Fortier & Norman J. Ornstein, “Symposium: The Absentee Ballot and the Secret Ballot: Challenges for Election Reform,” 36 U. MICH. J.L. & REFORM 483 (2003))).

Delaware’s Constitutional structure accounts for the risks associated with mail-in balloting. Article V, Section 4A provides a “list of six reasons for absentee voting,” which is “exhaustive.” *Higgin*, 2022 Del. Ch. LEXIS 232, at *9 (citing 82 Del. Laws ch. 245, § 1 (2020)); *see also Opinion of the Justices*, 295 A.2d 718 (Del. 1978). The Delaware Constitution and precedent allow absentee and mail-in voting in only the following instances: when in public service to the United States or the State of Delaware, due to illness or disability, by reason of absence while on vacation, due to religious tenets or teachings, and due to emergency declaration by the General Assembly in response to an ongoing pandemic. *See* Del. Const. Art. V, Section 4A; *Republican State Comm. of Del. v. Dep’t of Elections*, 250 A.3d 911, 914 (Del. Ch. 2020). These provisions “direct the General Assembly to enact laws permitting absentee voting in certain cases” and “to take all possible precaution against fraudulent abuse of the privilege” of absentee voting. *State ex rel. Smith v. Carey*, 49 Del. 143, 146 (1955). Without amending the Delaware Constitution, any legislative act by the General Assembly to expand absentee voting beyond these requirements is *per se* invalid.