

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 197

S.P. 72

In Senate, January 27, 2015

**An Act To Strengthen Maine's Election Laws by Requiring
Photographic Identification for the Purpose of Voting**

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator COLLINS of York.
Cosponsored by Representative PARRY of Arundel and
Senators: BURNS of Washington, CYRWAY of Kennebec, HAMPER of Oxford, VOLK of
Cumberland, Representatives: ESPLING of New Gloucester, KINNEY of Limington,
O'CONNOR of Berwick, TIMBERLAKE of Turner.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 21-A MRSA §671, sub-§1**, as amended by PL 2005, c. 453, §55, is
3 further amended to read:

4 **1. Name announced; proof of identity.** A voter who wishes to vote must state the
5 voter's name and present proof of identity in the form of a photographic identification
6 document and, upon request, state the voter's residence address to an election clerk, who
7 shall announce the name in a loud, clear voice. Photographic identification required by
8 this subsection must be an official identification document or card issued by a state, the
9 Federal Government or a college or university located in the State, or an electronic
10 benefits transfer card under Title 22, chapter 1, subchapter 1-A that displays an
11 identifying photograph, and must not be expired. Photographic identification required by
12 this subsection must be used solely to verify the identity of the person who wishes to
13 vote. If a person who wishes to vote does not present photographic identification, that
14 person must be permitted to cast a provisional ballot as provided by section 671-A.
15 Before November 9, 2016, the identity of a person who does not present photographic
16 proof of identity but is known to an election worker at the voting place may be verified as
17 provided in subsection 1-A.

18 **Sec. 2. 21-A MRSA §671, sub-§1-A** is enacted to read:

19 **1-A. Voter known to election worker; verification of identity.** A voter who does
20 not provide photographic identification on election day as required by subsection 1 and is
21 known to an election worker at the voting place may be issued a ballot after completion
22 and signing of an affidavit by the election worker. The affidavit must be in a form
23 prescribed by the Secretary of State and must be written to indicate that the election
24 worker can personally attest to the identity of the voter. The election worker may issue
25 the voter a ballot after the election worker who can attest to the identity of the voter has
26 signed the affidavit. For the purposes of this subsection, "election worker" includes a
27 municipal clerk, registrar and election official. This subsection is repealed November 9,
28 2016.

29 **Sec. 3. 21-A MRSA §671-A** is enacted to read:

30 **§671-A. Provisional voting**

31 A person who has not provided photographic identification as required by section
32 671, subsection 1 and has not had the person's identity verified by affidavit as provided in
33 section 671, subsection 1-A must be permitted to cast a provisional ballot as follows.

34 **1. How issued.** In order to cast a provisional ballot under this section, a person must
35 complete and sign a provisional ballot affidavit, swearing to or affirming that that person
36 is the person that person claims to be on the incoming voting list. The provisional ballot
37 affidavit must be on a form designed by the Secretary of State and must include, at a
38 minimum, the person's name, address, party affiliation, if any, and reason that the person
39 was not able to provide photographic proof of identity.

1 **2. Ballot and provisional envelope issued.** As soon as the provisional ballot
2 affidavit form under subsection 1 has been completed, the election clerk in charge of
3 ballots shall give a provisional ballot and a provisional ballot envelope to the warden. The
4 warden shall write a provisional ballot number on the affidavit form and the provisional
5 ballot envelope and give the ballot and envelope to the voter. The warden also shall give
6 the voter a notice about provisional voting, on a form designed by the Secretary of State,
7 that includes the provisional ballot number assigned to the voter's ballot. The form must
8 clearly state that the person who wishes to vote has 3 business days to provide the warden
9 or election clerk photographic proof of identity as prescribed in section 671, subsection 1
10 in order for the provisional ballot to be counted.

11 **3. Proceed to vote.** After a voter marks the provisional ballot under subsection 2,
12 the voter shall seal it in the provisional ballot envelope and return it to the warden.

13 **4. Provisional ballots segregated and logged.** The warden shall place a provisional
14 ballot envelope containing a provisional ballot completed under this section in a
15 tamper-proof container until the identity of the person marking the ballot can be verified
16 by photographic identification as required by section 671, subsection 1. The warden also
17 shall complete a provisional ballot log, on a form provided by the Secretary of State, that
18 indicates for each provisional ballot the name of the voter, the provisional ballot number
19 and a notation of whether the provisional ballot was resolved and cast. The sealed
20 tamper-proof containers of provisional ballots that are not resolved must be returned to
21 the municipal clerk after the polls are closed, along with all provisional ballot affidavits
22 and the provisional ballot log form.

23 **5. Resolution and counting of provisional ballots.** When a provisional ballot is
24 cast under this section, the municipal clerk or registrar shall proceed as follows.

25 **A.** If the identity of a person casting a provisional ballot under this section is verified
26 upon presentation of acceptable photographic identification by the close of the polls
27 on election day, the clerk or registrar shall designate on the provisional ballot log
28 under subsection 4 that the provisional ballot was accepted. The warden shall remove
29 the provisional ballot from the sealed provisional ballot envelope and place it into the
30 ballot box or tabulator to be counted with the other ballots after the polls close. The
31 election clerk in charge of the incoming voting list shall annotate the incoming voting
32 list to indicate that the voter voted.

33 **B.** If the identity of a person casting a provisional ballot under this section is verified
34 upon presentation of acceptable photographic identification after the close of the polls
35 on election day, but not later than the 3rd business day after the election, the clerk or
36 registrar shall designate on the provisional ballot log under subsection 4 that the
37 provisional ballot was accepted. The clerk or registrar, in the presence of one or more
38 witnesses, shall remove the provisional ballot from the sealed provisional ballot
39 envelope and place it into a ballot box in a manner that preserves the secrecy of the
40 vote. After all accepted provisional ballots have been placed into the ballot box, the
41 clerk or registrar shall remove and count the provisional ballots in the same manner
42 as regular ballots. After the incoming voting list is unsealed following the election,
43 the clerk or registrar shall annotate the list to add the names and addresses of the
44 voters under this subsection, along with an indication that the voters voted.

1 C. If a person casting a provisional ballot under this section has not presented
2 photographic identification acceptable to verify the person's identity within 3
3 business days after the election, the clerk or registrar shall write "rejected" on the
4 provisional ballot envelope and return the unopened envelope to the tamper-proof
5 container. The clerk or registrar shall update the provisional ballot log under
6 subsection 4 to indicate the ballot was rejected.

7 **6. Report to Secretary of State.** No later than 3 business days after an election, the
8 clerk shall report the status of all provisional ballots of the municipality under this section
9 to the Secretary of State by providing a copy of the provisional ballot log under
10 subsection 4. In addition to annotating the provisional ballot log to indicate whether
11 provisional ballots were accepted or rejected, the clerk shall update the municipality's
12 return of votes cast to include the votes cast by all provisional voters who presented
13 acceptable photographic identification.

14 **7. Secretary of State to make status available.** Within 20 days after an election,
15 the Secretary of State shall make available on the Secretary of State's publicly accessible
16 website the total number of provisional ballots under this section for that election,
17 including the number of ballots that were counted and the number of ballots that were not
18 counted. For a ballot that was not counted, the reason the ballot was not counted must be
19 included.

20 **Sec. 4. 29-A MRSA §1410, sub-§11** is enacted to read:

21 **11. Identification cards for the purpose of voting.** A person who submits an
22 application for a nondriver identification card is not required to pay the fee required by
23 subsection 2 if the person attests in the application that:

24 A. The person does not have photographic identification acceptable for the
25 verification of the person's identity for the purpose of voting as required by Title
26 21-A, section 671, subsection 1; and

27 B. The person is applying for a nondriver identification card solely for the purpose of
28 voting.

29 **SUMMARY**

30 This bill requires that a voter provide proof of identity with photographic
31 identification for the purpose of voting. The bill specifies the types of photographic
32 identification that may be used to verify the identity of a voter. It provides that a person
33 who does not present photographic identification may cast a provisional ballot and
34 establishes the process for provisional voting. Under this process, if the person can verify
35 the person's identity to the warden or an election clerk within 3 business days of the
36 election by presenting acceptable photographic identification, the ballot will be cast as a
37 regular ballot. Through the general election of 2016, a person who does not present
38 acceptable photographic identification but is known to a municipal clerk, registrar or
39 election official at the voting place may cast a regular ballot upon submission of an
40 affidavit by the municipal clerk, registrar or election official attesting to the person's
41 identity. Finally, the bill requires the Secretary of State to provide, at no fee, nondriver

1 identification cards to eligible persons who do not have another form of acceptable
2 photographic identification to verify identity for the purpose of voting.