

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 42

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H.P. 43

House of Representatives, January 9, 2019

**An Act To Provide for Nonpartisan Elections for the Office of  
District Attorney**

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

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative CEBRA of Naples.

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

2 **Sec. 1. 21-A MRSA §331, sub-§3, ¶B**, as enacted by PL 1985, c. 161, §6, is  
3 amended to read:

4 B. A person may file as a candidate for any federal, state or county office, other than  
5 district attorney, either by primary election or nomination petition but not by both,  
6 except for a candidate for membership in a county charter commission under section  
7 351, subsection 3.

8 **Sec. 2. 21-A MRSA §333**, as enacted by PL 1985, c. 161, §6, is amended to read:

9 **§333. Qualification for county office**

10 A candidate for any county office other than district attorney must be a resident of  
11 and a voter in the electoral division ~~he~~ the candidate seeks to represent on the date  
12 established for filing primary petitions in the year ~~he~~ the candidate seeks election. ~~He~~  
13 The candidate must maintain a voting residence in that electoral division during ~~his~~ the  
14 term of office.

15 **Sec. 3. 21-A MRSA §353**, as amended by PL 2009, c. 253, §19, is further  
16 amended to read:

17 **§353. Qualification of candidate for nomination by petition**

18 A person who seeks nomination by petition qualifies by filing a nomination petition  
19 and consent as provided in sections 354 and 355. ~~If~~ Except for a candidate for district  
20 attorney, if enrolled, the person must also withdraw enrollment in a party on or before  
21 March 1st to be eligible to file a petition as a candidate in that election year, as provided  
22 in section 145. The registrar in the candidate's municipality of residence must certify to  
23 that fact on a form designed by the Secretary of State. A candidate for district attorney  
24 seeking nomination by petition may continue to be enrolled in a party but may not  
25 include that designation on the nomination petition.

26 **Sec. 4. 30-A MRSA §251, sub-§1**, as enacted by PL 1987, c. 737, Pt. A, §2 and  
27 Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2 and c. 104, Pt. C, §§8 and 10, is  
28 further amended to read:

29 **1. Election.** The district attorneys ~~shall~~ must be elected on a nonpartisan ballot on  
30 the Tuesday following the first Monday of November in every 4th year, by the voters of  
31 the respective prosecutorial districts. The votes ~~shall~~ must be received, sorted, counted  
32 and declared in the same manner as votes for Representatives. The names of the persons  
33 voted for, the number of votes for each and the whole number of ballots received ~~shall~~  
34 must be recorded by the clerk of each municipality within the prosecutorial district. The  
35 clerk shall send true copies of these names and totals, sealed and attested as returns of  
36 votes for Senators, to the Secretary of State.

37 **Sec. 5. 30-A MRSA §252, sub-§2**, as amended by PL 1995, c. 245, §5, is further  
38 amended to read:

1            **2. Vacancies caused by other reasons.** When no person is elected or a vacancy  
2 happens in the office of district attorney, other than as provided in subsection 1, the  
3 Governor shall appoint without regard to political affiliation a competent attorney, a  
4 resident of the prosecutorial district affected, to serve as a substitute district attorney until  
5 the first day of January following the next biennial election. At that election, a person  
6 shall ~~shall~~ must be elected to the office of district attorney to serve for the remainder of the  
7 unexpired term. When the office of district attorney becomes vacant after the first day of  
8 October in the 2nd year after the election of a district attorney under section 251, a new  
9 election shall may not be held to fill the vacancy, but the substitute district attorney shall  
10 serve for the remainder of the unexpired term.

11            ~~A. In the case of a vacancy in the term of a district attorney who was nominated by~~  
12 ~~primary election before the general election, the district attorney appointed by the~~  
13 ~~Governor must be enrolled in the same political party as the district attorney whose~~  
14 ~~term is vacant. In making the appointment, the Governor shall choose from any~~  
15 ~~recommendations submitted by the county committee or committees of the political~~  
16 ~~party from which the appointment is to be made.~~

## 17            **SUMMARY**

18            This bill requires that a district attorney be elected on a nonpartisan ballot and that a  
19 vacancy in the office must be filled without regard to political affiliation. A candidate for  
20 district attorney must qualify by filing a nomination petition, although the candidate is not  
21 required to unenroll from a party. A candidate for district attorney may not include party  
22 affiliation on the nomination petition.