

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1463

H.P. 1070

House of Representatives, April 2, 2019

An Act To Create an Automatic Voter Registration System

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

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Speaker GIDEON of Freeport.

Cosponsored by Representatives: CLOUTIER of Lewiston, KESSLER of South Portland, O'NEIL of Saco, TALBOT ROSS of Portland, Senators: BELLOWS of Kennebec, CHENETTE of York, Senator LUCHINI of Hancock and Representatives: ACKLEY of Monmouth, BICKFORD of Auburn, HICKMAN of Winthrop, JORGENSEN of Portland, SCHNECK of Bangor, Senators: DOW of Lincoln, President JACKSON of Aroostook, MOORE of Washington.

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

2 **Sec. 1. 21-A MRSA §122-A**, as enacted by PL 2005, c. 364, §4, is amended to
3 read:

4 **§122-A. Alternative registration procedure for participants in Address**
5 **Confidentiality Program**

6 Notwithstanding sections 122 and 152 and subchapter 9, a person who is certified by
7 the Secretary of State as a program participant in the Address Confidentiality Program
8 pursuant to Title 5, section 90-B may register to vote using the designated address and
9 voter code assigned to that person pursuant to rules adopted to implement the program.
10 To register to vote, a voter must present the registrar with that voter's authorization card
11 assigned to the voter pursuant to rules adopted by the Secretary of State showing that
12 voter's name, voter code, designated address and certification expiration date. The
13 registrar may contact the Address Confidentiality Program administrator in the Secretary
14 of State's office to determine the voter's eligibility to register in the municipality and to
15 verify the electoral district in which the voter is voting for purposes of issuing an
16 absentee ballot to the voter pursuant to section 753-C. All registration records and
17 pending voter registration records, as defined in section 231, subsection 1, paragraph B,
18 for such voters must be designated as confidential and kept sealed in the registrar's office.
19 The name of any voter certified as a program participant in the Address Confidentiality
20 Program may not be placed on any voter list that is available for public inspection or
21 copying.

22 **Sec. 2. 21-A MRSA §129, first ¶**, as amended by PL 2011, c. 399, §11, is further
23 amended to read:

24 ~~When~~ Notwithstanding subchapter 9, when a voter's name is changed by marriage or
25 other process of law; or when the voter moves within a municipality, the following
26 provisions apply.

27 **Sec. 3. 21-A MRSA §152, sub-§1**, as amended by PL 2015, c. 447, §§4 and 5, is
28 further amended to read:

29 **1. Application.** In addition to the ~~procedure~~ procedures provided by section 122 and
30 subchapter 9, a person may register to vote or enroll in a political party, or both, by
31 completing an application that is designed by the Secretary of State. The application
32 must include, but is not limited to:

33 A. The legal name of the voter, in one of the following combinations:

- 34 (1) First name and last name;
35 (2) First initial, middle name and last name; or
36 (3) First name, middle name or middle initial and last name;

37 B. Residence address, including street, street number, apartment number, town and
38 zip code;

- 1 C. Mailing address;
- 2 D. Date of birth;
- 3 F. Most recent prior residence where registered to vote, including the municipality,
4 county and state, and the name under which previously registered, if changed;
- 5 H. Notification that failure to complete the entire application may prevent
6 registration;
- 7 J. Date of application;
- 8 K. Signature of applicant collected in a way that ensures the quality and integrity of
9 the signature;
- 10 L. Choice of political party if the applicant desires to enroll in a political party or an
11 indication that the applicant chose not to enroll in a party;
- 12 M. A place for the person's current, valid Maine driver's license number, if
13 applicable; or, if the applicant has no driver's license number, the last 4 digits of the
14 person's social security number, if applicable; or, if the applicant has neither number,
15 a place to put "none" or "not applicable"; and
- 16 N. A place for the applicant to respond to the questions concerning the voter's
17 qualifications as required by the federal Help America Vote Act of 2002, Public Law
18 107-252.

19 **Sec. 4. 21-A MRSA §155, first ¶**, as amended by PL 2011, c. 342, §8, is further
20 amended to read:

21 The registrar shall conditionally accept the registration and enrollment of any person
22 who is ~~17~~ 16 years of age and who is otherwise qualified to be a voter. The conditional
23 registration automatically becomes effective on the person's 18th birthday and the
24 registrant then is eligible to vote.

25 **Sec. 5. 21-A MRSA §195**, as amended by PL 2009, c. 564, §6, is repealed and the
26 following enacted in its place:

27 **§195. Report**

28 The Secretary of State shall report annually by January 15th to the joint standing
29 committee of the Legislature having jurisdiction over voter registration matters on the
30 administration of the central voter registration system and the automatic voter registration
31 system established pursuant to subchapter 9.

32 **1. Automatic registration efforts.** Beginning January 15, 2022, the report required
33 under this section must include the following information regarding the actions taken
34 pursuant to subchapter 9:

35 A. The number of pending voter registration records that have been transferred by
36 source agencies;

37 B. The number of voters added to the central voter registration system because of
38 pending voter registration records transferred by source agencies;

1 **2. Registration referral by source agency.** In addition to the procedures provided
2 in sections 122 and 152, an individual may be referred to be registered to vote by a source
3 agency pursuant to this section.

4 **3. Designation of bureau as source agency; other source agencies.** The bureau is
5 designated as a source agency. A source agency other than the bureau may be designated
6 or created pursuant to this subsection.

7 A. The Secretary of State may designate a state agency or department as a source
8 agency if the Secretary of State verifies that the agency or department, as part of the
9 normal course of business of that agency or department, collects documents that
10 provide proof of voter eligibility. The Secretary of State may designate as source
11 agencies other entities designated by Section 7 of the National Voter Registration Act
12 of 1993, 52 United States Code, Section 20506, including, but not limited to, public
13 or private universities or colleges, municipal clerk offices or entities that provide
14 services to persons with disabilities, as long as those entities, as part of the entities'
15 normal course of business, collect documents that provide proof of voter eligibility.

16 B. An entity that on January 1, 2022 is designated by Section 7 of the National Voter
17 Registration Act of 1993 to provide voter registration services is designated as a
18 source agency if the entity, as part of its normal course of business, collects
19 documents that provide proof of voter eligibility.

20 C. The Governor may designate by executive order a state agency as a source agency
21 if that agency, as part of its normal course of business, collects documents that
22 provide proof of voter eligibility.

23 An agency designated as a source agency pursuant to this subsection shall follow the
24 same procedures for automatic voter registration as followed by the bureau and is subject
25 to the requirements of this section, including preimplementation audit and risk assessment
26 and ongoing audits and accuracy checks.

27 **4. Transmission of proof of voter eligibility data; opportunity to opt out.** A
28 source agency that, through receipt of an application for assistance or service, including
29 licensing or certification or the renewal of the assistance or service, collects proof of
30 voter eligibility data shall transmit that data to the bureau. Any document or application
31 used by a source agency to collect proof of voter eligibility data must contain notice that
32 the information provided by the applicant could be used to register the applicant to vote,
33 unless the applicant declines, and that some of the applicant's information would be sent
34 to a central voter database where it would be accessible to entities other than the State or
35 the source agency.

36 **5. Registration of individual.** If information transferred pursuant to this section and
37 section 232 indicates that an individual is not included in the central voter registration
38 system and the available age, citizenship, residency and other relevant information prove
39 that the individual meets the qualifications to vote in the State and is not otherwise
40 ineligible to vote or that the individual meets the qualifications for advance registration
41 pursuant to section 155, the Secretary of State shall refer the individual to the appropriate
42 election official and that election official shall register that individual as a voter and add

1 that individual to the central voter registration system unless the individual declines to be
2 registered to vote pursuant to section 232, subsection 5, paragraph A.

3 **6. Update of address.** If the information transferred pursuant to this section and
4 section 232 indicates that an individual is already registered to vote in the central voter
5 registration system and the information proves a more recent change to the individual's
6 name or address, the Secretary of State and the election official shall ensure that the
7 individual's records in the central voter registration system are updated accordingly.

8 **§232. Collection, maintenance and use of data**

9 The collection, maintenance and use of data for voter registration under this
10 subchapter are governed by this section.

11 **1. Application; creation of pending voter registration record.** If an individual
12 applies for a driver's license or nondriver identification card from the bureau, the bureau
13 shall scan the documentation provided by the individual and create a pending voter
14 registration record for that individual, which must be stored electronically in the bureau's
15 database. The pending voter registration record and the accompanying scanned
16 documentation must be in a searchable, auditable format.

17 **2. Proof of citizenship.** If an individual in the course of business with the bureau
18 provides a document that proves the individual is a United States citizen, the pending
19 voter registration record of that individual in the bureau's database must indicate that the
20 individual has fulfilled the citizenship eligibility requirement for the purpose of
21 registering to vote.

22 **3. Audit of data.** The Secretary of State shall audit the central voter registration
23 system for quality of data prior to implementation of the voter registration system
24 pursuant to this subchapter and periodically thereafter conduct regular audits and random
25 checks to ensure accuracy and reliability of the data.

26 **4. Sharing of certain information prohibited; penalty.** The information retained
27 by the bureau regarding citizenship status or country of origin may not be shared with any
28 federal, state or local government agency except as allowed by this subchapter. Violation
29 of this subsection is a Class E crime.

30 **5. Electronic transmission of voter registration data and notice.** If an individual's
31 pending voter registration record establishes voter eligibility, the bureau shall transmit
32 electronically the individual's pending voter registration record to election officials in a
33 format that may be reviewed by election officials and converted and uploaded into the
34 central voter registration system. The bureau also shall transmit for review by election
35 officials any changes to the address or name of an individual in the central voter
36 registration system to ensure that the voting lists are kept current.

37 An election official shall provide information to the individual stating that, if the
38 individual is eligible and not registered to vote, the information provided by the
39 individual will be used to register the individual to vote, making some of that individual's
40 information accessible to entities other than the State or the election official. The election
41 official shall provide a process by which the individual may:

1 A. Decline being registered as a voter; and

2 B. Adopt a political party affiliation.

3 Any communication must comply with the language requirements of Section 203 of the
4 federal Voting Rights Act of 1965, 52 United States Code, Section 10503.

5 If an individual identified under this subsection as unregistered but eligible to vote does
6 not decline to be registered as a voter within 21 calendar days after the election official
7 issues the notification, the individual's pending voter registration record submitted under
8 this subsection must be considered a completed registration and the individual must be
9 registered to vote and entered into the central voting system.

10 **§233. Voluntary exclusion from voter list**

11 **1. Designation of individuals who request to opt out.** The Secretary of State shall
12 ensure that, upon receipt and verification of an individual's request to opt out of voter
13 registration, the individual's name and pending voter registration record are designated as
14 unregistered, unless the voter subsequently consents to registration. This subsection does
15 not preclude an individual who has previously declined voter registration from
16 subsequently registering to vote.

17 **2. Provision of records for permitted use only.** The Secretary of State shall ensure
18 that election officials do not provide the pending voter registration record of an individual
19 who has opted out of voter registration to a 3rd party for any purpose other than the
20 compilation of a jury list.

21 **3. Opportunity to opt out prior to voter registration transaction.** The Secretary
22 of State shall ensure that, prior to the creation of a pending voter registration record by a
23 source agency, an individual is given the opportunity to opt out of any voter registration
24 transaction. If an individual opts out of voter registration, information about that
25 individual may not be transferred out of the source agency that obtained the information.

26 **§234. Privacy and security standards**

27 The Secretary of State periodically shall review privacy and security measures
28 applied to the central voter registration system and the voter registration system
29 established in the subchapter, including pending voter registration records and, as
30 provided in this section, implement standards and procedures to further safeguard the
31 confidentiality, integrity and security of the information collected, maintained, received,
32 transmitted or used pursuant to this subchapter, referred to in this section as "the data."

33 **1. Security.** All source agencies, election officials and the Secretary of State shall
34 work individually and jointly to:

35 A. Ensure the confidentiality, integrity and security of the data;

36 B. Identify and protect against any threats to the confidentiality, integrity and
37 security of the data, including impermissible uses and disclosures;

38 C. Train all persons who handle or have access to the data regarding implementation
39 of the security protocols established;

1 D. Conduct regular audits, either through a neutral 3rd party or the State Auditor,
2 and risk management assessments and pursue measures that are indicated as
3 necessary;

4 E. Provide the highest level of physical security to facilities, computers and other
5 sensitive equipment on which the data is stored;

6 F. Employ available software to detect anomalies and irregularities;

7 G. Implement measures to ensure against unauthorized access or changes in data
8 through the process of transmitting data from one agency to another; and

9 H. Develop procedures to respond immediately to a breach of the security of the data
10 and to appropriately inform the public and other necessary parties of the breach and
11 consequences of that breach.

12 **2. Privacy.** The Secretary of State shall develop, publish and enforce a privacy
13 policy with respect to the central voter registration system, the voter registration system
14 established in this subchapter and the data that:

15 A. Specifies each class of internal users that have authorized access to the central
16 voter registration system, specifying for each class the permissions and levels of
17 access to be granted, and setting forth other safeguards to protect the privacy of the
18 information in the central voter registration system;

19 B. Prohibits public disclosure of any information not necessary for voter registration;

20 C. Protects against public disclosure of social security numbers, in whole or in part,
21 driver's license numbers, nondriver identification card numbers and signatures;

22 D. Prohibits public disclosure of an individual's decision not to register to vote;

23 E. Prohibits agencies from transmitting to election officials information other than
24 that required for voter registration or specified information relevant to the
25 administration of elections, such as language preference and demographic
26 information; and

27 F. Prohibits the disclosure of information relating to persons in categories designated
28 as confidential by federal or state law, including victims of domestic violence or
29 stalking, prosecutors and law enforcement personnel and participants in a witness
30 protection program.

31 **3. Records retention.** The Secretary of State shall establish standards and
32 procedures to maintain all election records required for purposes of this subchapter. The
33 pending voter registration record of an individual who has been identified as ineligible to
34 vote within the State or whose name has been removed from the central voter registration
35 system due to opting out or due to ineligibility must be maintained and kept available
36 until the date of the 2nd general election that occurs after the date that the individual
37 opted out or was identified as ineligible, after which it must be deleted.

1 **§235. Protection against liability of individuals on basis of information transferred;**
2 **false information**

3 **1. No individual liability for error by State.** If an individual who is ineligible to
4 vote becomes a registered voter pursuant to this subchapter, that individual's registration
5 is deemed to be the fault of the State and not attributable to or the fault of the individual.

6 **2. Providing false information.** Notwithstanding subsection 1, an individual who
7 knowingly and willfully provides false information under this subchapter is subject to
8 prosecution pursuant to Title 17-A, section 452.

9 **§236. Protections against misuse of information**

10 **1. Restriction on use of registration records.** A person may not use the central
11 voter registration system or pending voter registration records for any purpose other than
12 voter registration, election administration, the enforcement of laws against election
13 crimes or as allowed under section 196-A.

14 **2. Restriction on use of information.** Information relating to an individual's
15 absence from the central voter registration system or an individual's declining to supply
16 information for voter registration purposes at a source agency is not a public record as
17 defined in Title 1, section 402 and may not be disclosed to the public or used for any
18 purpose other than voter registration, election administration or the enforcement of laws
19 against election crimes.

20 **§237. Nondiscrimination**

21 A person acting under color of law may not discriminate against an individual on the
22 basis of the individual's absence from the central voter registration system, the
23 information supplied by the individual for voter registration purposes at a source agency
24 or the individual's declining to supply such information, except as required to administer
25 elections or enforce the laws against election crimes.

26 **§238. Rules**

27 The Secretary of State may adopt rules to implement this subchapter. Rules adopted
28 pursuant to this section are major substantive rules as defined in Title 5, chapter 375,
29 subchapter 2-A.

30 **§239. Rule of construction**

31 **1. No change to authority to maintain voting lists.** This subchapter may not be
32 construed to interfere with any election official's authority or obligation, under state or
33 federal law, to:

34 A. Determine whether an individual is qualified to be a voter; or

35 B. Conduct regular, nondiscriminatory voting list maintenance designed to ensure
36 that persons who are ineligible to vote are not reflected as voters in the central voter
37 registration system.

1 Information from a source agency may also be used to update an individual's voter
2 registration.

3 This bill exempts from liability an individual who is not qualified to be a registered
4 voter but who becomes a registered voter by operation of the automatic registration, as
5 long as that individual has not knowingly or willfully provided false information.

6 This bill also requires the Secretary of State to adopt major substantive rules to
7 implement the new automatic voter registration system and submit those rules, along with
8 any proposed legislation necessary for the proper implementation of the new system, to
9 the Second Regular Session of the 129th Legislature.

10 Finally, this bill lowers the age at which a person may submit a conditional
11 registration to vote and enrollment in a political party from 17 years of age to 16 years of
12 age.