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Elections: Effect of Change of Enrollment
21 M.R.S.A. § 134
21 M.R.S.A. § 444

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February 1, 1978

Honorable William J. Garsoe
House of Representatives
State House
Augusta, Maine

Dear Representative Garsoe:

This responds to your request for advice on the question of whether or not a person changing their party affiliation on January 17, 1978, would be effectively barred from running for office in the June, 1978, primary as either a Republican or a Democrat.

We would advise that if the person in question did not change their municipality of residence, they would be effectively barred, because of the January change in party affiliation, from filing nominating petitions on April 1, 1978, and thus from running as a Republican or Democratic candidate in the June, 1978, primary.

The key provisions of law effecting this question are 21 M.R.S.A. § 134 and 21 M.R.S.A. § 444. 21 M.R.S.A. § 444 specifies that a candidate for primary nomination must be enrolled, on or before April 1, in the party named in the petition of candidacy and that the candidate must be eligible to file a petition as a candidate for nomination for primary election as provided in § 134, sub-§ 3. Thus, § 444, standing by itself, does not present a problem, as all that section looks to is enrollment on or before April 1 in the party named in the petition.

21 M.R.S.A. § 134-3, however, adds significant limitations: Subsection 3 reads as follows:

"A voter may not vote at a caucus or primary election or file a petition as a candidate for nomination by primary election within 3 months after filing an application to change his enrollment, except as provided in subsection 4."

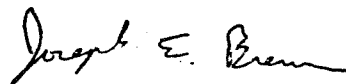
Subsection 4 reads as follows:

"When a voter changes his residence from one municipality to another and establishes a new voting residence there, he may enroll in the party and vote at a caucus, convention or primary election, regardless of his previous enrollment."

21 M.R.S.A. § 445-8 specifies April 1 as the deadline for filing petitions as a candidate for nomination. Thus, according to § 134-3, any person filing an application to change enrollment within three months prior to that date would be barred from filing a petition as a candidate for nomination by primary election in the primary of the party in which that person is newly enrolled. This would effectively bar a person who applied to change their party enrollment on January 17 from running in the primary election of their new party. However, by operation of § 134-4, quoted above, a voter who changes residence from one municipality to another may participate in electoral process without regard to the 3-month limitation imposed by sub-§ 3. Thus, a potential candidate, applying to change enrollment on January 17, may file petitions to become a candidate in the primary election if that person changes their municipality of residence and registers and enrolls in a new municipality of residence prior to April 1.

I hope this information is helpful.

Sincerely,



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Attorney General

JEB/ec

cc: Legislative Leadership
Representative Timothy Moody