

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2200

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H. P. 2029 House of Representatives, February 11, 1976  
Reported by Mrs. Boudreau from Committee on Election Laws pursuant  
to H. P. 1646. Printed under Joint Rules No. 3.

EDWIN H. PERT, Clerk

Filed under Joint Rule 3, pursuant to H. P. 1646.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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AN ACT to Clarify the Election Laws.

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are a number of errors and inconsistencies in the election laws that must be corrected or clarified and a number of minor improvements that need to be made; and

Whereas, these changes should be in effect before the start of elections this year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 21 MRSA § 1, sub-§ 8 is amended to read:

**8. County office.** "County office" means the office of judge of probate, register of probate, ~~clerk of courts~~ county treasurer, register of deeds, sheriff, ~~county~~ district attorney and county commissioner.

**Sec. 2.** 21 MRSA § 1, sub-§ 11, is amended to read:

**11. Election official.** "Election official" includes a warden, ward clerk and election clerk, and the clerk of a municipality unless determined otherwise by charter.

Sec. 3. 21 MRSA § 1, sub-§ 35, is repealed and the following enacted in place thereof:

35. Residence. "Residence" means that place in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return.

Sec. 4. 21 MRSA § 72, sub-§ 1 is amended to read:

1. Request and statement. The applicant must make a written request to the registrar accompanied by a written statement from his attending physician certifying to his the applicant's physical inability to appear.

Sec. 5. 21 MRSA § 72, sub-§ 2 is amended by inserting after the first sentence the following new sentence:

This section is subject to the restrictions found in section 631.

Sec. 6. 21 MRSA § 72, sub-§ 2, ¶ A is repealed and the following enacted in place thereof:

A. Travel expense. The registrar is entitled to travel expense which shall be paid by the municipality at the same rate as paid other employees of the municipality.

Sec. 7. 21 MRSA § 102, sub-§ 2, last sentence is repealed and the following enacted in place thereof:

The registrar shall register a person by first name, middle name or initial, and surname, or by first name or initial, middle name and surname.

Sec. 8. 21 MRSA § 102-A, sub-§ 1, as last amended by PL 1973, c. 414, § 5, is repealed and the following enacted in place thereof:

1. Application. In addition to the procedure provided by section 102, a person may register to vote by completing an application which shall be designed by the Secretary of State, containing the following information:

A. First name, middle name or initial, and surname, or first name or initial and middle name, and surname;

B. Legal address, including street, street number, apartment number, town, county and zip code;

C. Mailing address;

D. Date of birth;

E. Sex;

F. Most recent prior residence where registered to vote, to include name under which registered, if changed, legal address and mailing address;

G. Whether a citizen by birth or naturalization: If by naturalization, the date, place and court of naturalization. The applicant must also produce his certificate of naturalization or a certified copy of the court record of such naturalization from the court by which the applicant was naturalized, for

inspection by the registrar or any other official empowered to register voters;

H. Notification that failure to complete the entire application may prevent registration; and

I. A certification that all information is correct, sworn before an official empowered to register voters.

Sec. 9. 21 MRSA § 133, sub-§ 1 is amended to read:

1. **Application delivered to warden.** The election clerk who receives the completed application shall initial it and deliver it to the ~~registrar~~ **warden, who shall cause it to be delivered to the registrar,** after the polls are closed.

Sec. 10. 21 MRSA § 171, sub-§ 2, first sentence is amended to read:

~~He~~ **The registrar** shall keep a list current at all times by adding the names of new voters and by removing the names of those who have died, moved from the municipality ~~more than 3 months previously~~ with an apparent intention of abandoning their residence therein, or become disqualified to vote.

Sec. 11. 21 MRSA § 171, sub-§ 3 is repealed and the following enacted in place thereof:

3. **List of deceased residents.** The clerk shall, upon request of the registrar, furnish the registrar with a list of the deceased in the municipality.

Sec. 12. 21 MRSA § 172, 1st ¶, is amended to read:

The registrar shall ~~send mail~~ a notice ~~by certified mail with return receipt requested~~ to the last known place of residence of each living person whose name ~~he or she~~ the registrar has removed from the voting list. Upon receipt of such notification, the voter shall reply to the registrar within ~~60~~ 30 days stating ~~his~~ the reasons why his name should not be removed from the voting list. If this notification is returned unclaimed, such return shall be deemed sufficient notice to make the removal of such name confirmed. Such ~~return receipt~~ returns and replies by the voter to the registrar shall be kept on file by the registrar and available for inspection for 2 years.

Sec. 13. 21 MRSA § 172, sub-§ 1, as last amended by PL 1967, c. 544, § 53, is further amended to read:

1. **Content of notice.** The notice shall contain the following message:

Dear ~~Sir~~ Voter :

This is to advise you that your name has been removed from the voting list of (name of municipality) for the following reason: (Here state reason for removal). Your failure to reply within ~~60~~ 30 days will be deemed to indicate your agreement with this action.

(Name of registrar)

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Registrar of voters

(Name of Municipality)

**Sec. 14.** 21 MRSA § 172, sub-§ 2 is amended to read:

2. **Content of reply.** The postal card shall contain the following message:

Dear ~~Sir~~ Registrar:

I respectfully request that my name be replaced on the voting list of (name of municipality) for the following reason: (Here allow space for reason to be stated). I swear that the reason stated above is true.

Signature

Address

**Sec. 15.** 21 MRSA § 172, sub-§ 3, 2nd sentence is amended to read:

If not, ~~he~~ the registrar shall notify the person within a reasonable time 14 days that the reason given appears to be insufficient and that ~~his~~ such person's name has not been replaced on the voting list.

**Sec. 16.** 21 MRSA § 201, sub-§ 1, as last amended by PL 1969, c. 109, § 2, is repealed and the following enacted in place thereof:

1. **Content of general register.** The general register must contain the following information concerning each person on the voting list on index cards filed alphabetically by surname:

A. First name, middle name or initial, and surname or first name or initial, middle name and surname;

B. Legal address, including street, street number, apartment number, town, county and zip code;

C. Mailing address;

D. Date of birth;

E. Sex;

F. Most recent prior residence where registered to vote, to include name under which registered, if changed, legal address and mailing address;

G. Whether a citizen by birth or naturalization: If by naturalization, the date, place and court of naturalization and the date on which the official empowered to register voters inspected the certificate or certified copy of the court record of naturalization; and

H. Remarks concerning registration or enrollment.

**Sec. 17.** 21 MRSA § 362, as last amended by PL 1967, c. 225, § 1, is repealed and the following enacted in place thereof:

§ 362. Voting list

On request of the person or persons calling a municipal caucus, made to the registrar at least 5 business days in advance thereof, the registrar shall prepare, at the expense of the municipality, a certified copy of the voting list for use at the caucus. The secretary of the municipal committee shall obtain the copy from the registrar.

**Sec. 18.** 21 MRSA § 445, sub-§ 5, first sentence, is amended to read:

It must be signed by a number of voters equal to at least 1% but not more than 2% of the total vote cast for Governor at the last gubernatorial election in the electoral division which is to make the nomination ~~or equal to at least 10% of the total vote for Governor cast in that electoral division at the last gubernatorial election by the party of the candidate, whichever is less.~~

**Sec. 19.** 21 MRSA § 445, sub-§ 9, as last amended by PL 1973, c. 414, § 17, is repealed and the following enacted in place thereof:

9. **When filed.** It must be filed in the office of the Secretary of State by or before 5 p.m. on April 1st of the election year in which it is to be used.

**Sec. 20.** 21 MRSA § 492, sub-§ 3, as last amended by PL 1971, c. 65, § 13, is repealed and the following enacted in place thereof:

3. **How signed.** It must be signed personally by the voter using one of the following combinations: First name, middle name, surname; first name, middle initial, surname; first initial, middle name, surname; or if no middle name, first name and surname.

**Sec. 21.** 21 MRSA § 492, sub-§ 9, as repealed and replaced by PL 1975, c. 520, § 2, is amended to read:

9. **Declaration of candidacy.** A person who seeks nomination by petition must file a signed declaration of candidacy with the Secretary of State by or before 5 p.m. on April 1st of the election year in which ~~he or she~~ such person will be a candidate. The person filing a declaration of candidacy must include within the declaration the title of the office ~~he or she~~ such person intends to seek. Failure to file such declaration prior to 5 p.m. on April 1st will result in that ~~person being ineligible~~ person's ineligibility to be a candidate for election to that office in that calendar year.

**Sec. 22.** 21 MRSA § 492, sub-§ 11, as last amended by PL 1971, c. 544, § 68, is further amended to read:

11. **Petition void.** A nomination petition on file after ~~9 p.m.~~ 5 p.m. on the date of primary election which does not meet the requirements of subsections 1, 5, 6, 8, 9 or 10 is void.

**Sec. 23.** 21 MRSA § 494, sub-§ 1, as last amended by PL 1971, c. 544, § 70, is further amended to read:

1. **Limitation.** Corrections or additional signatures may not be submitted after ~~9 p.m.~~ 5 p.m. on the date of primary election.

**Sec. 24.** 21 MRSA § 494, sub-§ 2, as last amended by PL 1971, c. 544, § 72, is repealed and the following enacted in place thereof:

2. **Challenge of validity of petitions.** Anyone desiring to challenge the validity of a nomination petition shall notify the Secretary of State of such challenge in writing by or before 5 p.m. on the 7th day after the date of the primary election. Such written notice shall set forth the reasons for the challenge.

**Sec. 25.** 21 MRSA § 604, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 165, § 2, is amended to read:

In municipalities in which one or more voting places and the office of the clerk are inaccessible to elderly and physically handicapped voters and in which one or more voting places is accessible to such voters, the municipal officers shall designate ~~an accessible voting place, if available~~ one of such accessible voting places, as centrally located as possible, as the alternative voting place for elderly and physically handicapped voters who reside in voting districts which do not have accessible voting places.

**Sec. 26.** 21 MRSA § 633, as amended by PL 1973, c. 414, § 29, is amended to read:

**§ 633. —change of**

The hourly schedule established by ~~sections section 631 and 632~~ may be changed by the municipal officers according to the needs of the municipality. The municipal officers shall establish an hourly schedule for the days for registration at a special election prescribed by section 632.

**Sec. 27.** 21 MRSA § 634, first ¶, is amended to read:

The registrar shall publish ~~his~~ the time schedule and hourly schedules established by pursuant to sections 631 and 632, or as changed by the municipal officers, in a newspaper having general circulation in the municipality ~~a reasonable time~~ at least 7 days before it becomes effective.

**Sec. 28.** 21 MRSA § 701, sub-§ 2, ¶ H as enacted by PL 1973, c. 160, § 3, is repealed and the following enacted in place thereof:

**H. Name printed.** The name of each nominee shall appear on the ballot as follows: Surname first, in block capital letters, followed by the first name and middle name or initial; or surname first in block capital letters, followed by the first name or the first initial and the middle name.

**Sec. 29.** 21 MRSA § 702, sub-§ 2, ¶ I, as enacted by PL 1973, c. 160, § 7, is repealed and the following enacted in place thereof:

**I. Name printed.** The name of each nominee shall appear on the ballot as follows: Surname first, in block capital letters, followed by the first name and middle name or initial; or surname first, in block capital letters, followed by the first name or first initial and the middle name.

**Sec. 30.** 21 MRSA § 704, sub-§ 3 is amended to read:

**3. Clerk to post.** The clerk shall post or cause to be posted a specimen ballot at least 7 days before the election in a conspicuous, public place in each voting district.

**Sec. 31.** 21 MRSA § 706, sub-§ 5, as last amended by PL 1973, c. 60, is repealed and the following enacted in place thereof:

**5. Separate ballot box for constitutional amendments and referenda.** A municipality having 5,000 or more inhabitants, except where such municipality uses voting machines or electronic voting systems, shall, and a municipality

with fewer inhabitants may, by vote of its municipal officers, use separate ballot boxes at elections for deposit of votes on constitutional amendments and referenda. The municipal officers shall notify the Secretary of State of such action at least 60 days before the date of the election at which such separate ballot boxes are to be used. If such separate ballot boxes are to be used, they shall be subject to all the provisions relating to official ballot boxes, as provided in this section. They shall be furnished by the Secretary of State at the expense of the municipality.

Sec. 32. 21 MRSA § 801, sub-§ 1, first sentence, is amended to read:

Before the opening of the polls, the clerk shall deliver or cause to be delivered the election materials marked for each voting place to the warden at that voting place.

Sec. 33. 21 MRSA § 802 is repealed and the following enacted in place thereof:

§ 802. Certified voting list and official ballot box

The certified copies of the voting list provided by the registrar and official ballot boxes shall be used exclusively at each voting place.

Sec. 34. 21 MRSA § 862 is repealed and the following enacted in place thereof:

§ 862. Assistance

A voter who is unable to read or mark his ballot because of blindness or other physical disability or because of illiteracy or whose religious faith prevents him from marking the ballot may obtain assistance in marking the ballot from 2 election officials or from the voter's father, mother, brother, sister, husband, wife or child, as selected by the voter, or from a person selected by the voter with the approval of an election official, provided that such aide is of voting age and that no candidate for election shall act as aide. When the assistance of election officials is requested, the warden shall designate 2 election officials representing different political parties, but, in primary elections representing the same political party as the voter. When 2 such election officials assist a voter, they shall mark the ballot or assist the voter in doing so without attempting to influence his vote. They shall write on the outside of the ballot that it was marked by them or by the voter with their assistance and shall sign their names. When an aide, as described in this section, assists a voter, the warden shall write on the outside of the ballot that it was marked by such aide or by the voter with such aide's assistance and shall write the aide's name.

Sec. 35. 21 MRSA § 1062, sub-§ 4 is enacted to read:

4. Provided by municipality. In those municipal voting districts using electronic voting systems, the municipal officers of each municipality shall provide at least one voting device for each 250 voters qualified to vote at each voting place.

Sec. 36. 21 MRSA § 1211, 2nd sentence, as enacted by PL 1973, c. 199, § 1, is amended to read:



After the time for completion of recounts following any election has elapsed, and on request of any ~~registered voter~~ **person**, the clerk of any municipality or the Secretary of State, or both, shall produce any checklists in his custody.

**Sec. 17.** 21 MRSA § 1253, sub-§ 2, 3rd sentence, as last amended by PL 1973, c. 414, § 46, is further amended to read:

The clerk shall type or write in ink the name **and the legal address** of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

**Sec. 38.** 21 MRSA § 1253, sub-§ 2, as last amended by PL 1973, c. 414, § 46, is amended by adding at the end the following new sentence:

**If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk shall not issue another absentee ballot for such person.**

**Sec. 39.** 21 MRSA § 1253, sub-§ 3, as last amended by PL 1975, c. 387, § 3, is amended by adding at the end the following new sentence:

**The clerk shall submit such list to the registrar for certification before the close of business on the day prior to election day.**

**Sec. 40.** 21 MRSA § 1254, sub-§ 6, is repealed and the following enacted in place thereof:

**6. Assistance.** A voter who is unable to read or to mark his ballot because of blindness or other physical disability or because of illiteracy may request one of the officials listed in subsection 1 or the voter's father, mother, brother, sister, husband, wife or child as the voter may select, provided that such aide is of voting age, to read the ballot to him and mark it according to the voter's instructions or to assist the voter in marking the ballot. The official may, at the request of such voter, complete and sign the affidavit on the envelope. When such official or such an aide assists a voter in this way, the official shall write on the envelope that he or an aide marked the ballot or assisted the voter in marking the ballot and, if an aide, shall write the aide's name.

**Sec. 40-A.** 21 MRSA § 1254, sub-§ 7, as enacted by PL 1973, c. 32, is repealed.

**Sec. 41.** 21 MRSA § 1256, sub-§ 2, 1st sentence, is amended to read:

He shall compare the signature of the voter on the application, **where required**, with that on the corresponding return envelope.

**Sec. 42.** 21 MRSA § 1256, sub-§ 2 is amended by adding to the end the following new sentence:

**The clerk shall not open any return envelope.**

**Sec. 43.** 21 MRSA § 1256, sub-§ 3 is repealed.

**Sec. 44.** 21 MRSA § 1256, sub-§ 4, as repealed and replaced by PL 1973, c. 625, § 113, is amended to read:

**4. Lists prepared.** The clerk shall prepare in duplicate lists by districts of the names and addresses of the voters as shown on the return envelopes; he shall maintain a copy for a period of ~~4 years~~ **which 2 years, and such copy shall be a public record.**

**Sec. 45.** 21 MRSA § 1256, sub-§ 5, 1st sentence, as last amended by PL 1973, c. 782, § 13, is further amended to read :

On election day, ~~he~~ **the clerk** shall deliver or cause to be delivered the return envelopes prescribed by section 1255 with the applications, **where required,** attached and the list required by subsection 4 to the warden of the voting district in which the voter is registered, except in those municipalities where the municipal officers have authorized the clerk to process absentee ballots.

**Sec. 46.** 21 MRSA § 1259, sub-§ 2, 1st sentence, is amended to read :

If the warden finds that the signatures appear to have been made by the same person and that the affidavit is properly completed, **or if no application was required,** he shall examine the checklist to determine whether the voter voted in person at the election.

**Sc. 47.** 21 MRSA § 1259, sub-§ 3, 1st sentence, is amended to read :

If the warden finds that the signatures do not appear to have been made by the same person, **in cases where an application is required,** that the affidavit is not properly completed, that the person is not registered, or enrolled where necessary, that the voter has voted in person or that the ballot was received by the clerk after the deadline, he shall not open the envelope.

**Sec. 48.** 21 MRSA § 1259-A, sub-§ 1, as enacted by PL 1973, c. 414, § 51, is amended to read :

**1. Envelopes and lists retained.** The clerk shall retain ~~in his~~ **in his** possession of return envelopes with the ~~applications attached and the~~ **applications attached and the** list required by section 1256, subsection 4.

**Sec. 49.** 21 MRSA § 1261, as last amended by PL 1975, c. 270, is amended by adding at the end the following new sentence :

**The following information must be contained on the envelope in order for the ballot to be accepted: Voter's name and legal address typed or written in ink by the clerk in the upper left-hand corner; voter's signature; voter's reason for voting absentee; and certifying official's signature.**

**Sec. 50.** 21 MRSA § 1262, first sentence is amended to read :

As soon as the ballots have been counted, the applications **where required,** absentee ballots, return envelopes, lists required by section 1256 and other election materials shall be repacked in accordance with section 926 and returned to the clerk.

**Sec. 51.** 21 MRSA § 1421, as enacted by PL 1975, c. 621, § 10, is amended to read :

**§ 1421. Jurisdiction**

The ~~commission~~ Commission on Governmental Ethics and Election Practices, established pursuant to Title 1, section 1002 and hereafter in this chapter referred to as the "commission" shall have full and final jurisdiction consistent with the Federal and State Constitutions for the final determination of election results in elections for county, state or federal offices that are contested.

Sec. 52. 21 MRSA § 1443, sub-§ 1, is repealed and the following enacted in place thereof:

1. **Municipal committee.** Such choices concerning the office of Representative to the Legislature shall be made by a municipal committee when a Representative District consists of one municipality, by a joint meeting of municipal committees when a Representative District consists of 2 or more municipalities, or by members of a municipal committee or committees residing within a Representative District when such Representative District includes a part of a municipality or parts of different municipalities.

Sec. 53. 21 MRSA § 1475, first sentence, is amended to read:

A candidate for nomination or a nominee chosen to fill a vacancy must file a final campaign report as prescribed by section 1397 with the ~~Secretary of State~~ Commission on Governmental Ethics and Election Practices within 15 days after his appointment.

Sec. 54. 21 MRSA § 1577, sub-§ 1, as amended by PL 1973, c. 199, § 2, is amended to read:

1. **Exceptions.** Ballots and absentee ballot envelopes are not public records and may be inspected only in accordance with this Title.

Sec. 55. 21 MRSA § 1579, sub-§ 27, is amended to read:

27. **Failure to pay fine.** A person who fails to pay any fine assessed by the ~~Campaign Reports Committee~~ Commission on Governmental Ethics and Election Practices;

Sec. 56. 21 MRSA § 1581 is enacted to read:

§ 1581. **Field examiner**

The Secretary of State may appoint a field examiner whose duties shall consist primarily of instructing and assisting municipal election officials in relation to their administration of provisions of Title 21 and shall include the training of municipal election officials prior to primary and general elections within the State.

Sec. 57. 21 MRSA § 1622, sub-§ 4, 2nd sentence, is amended to read:

If an applicant ~~has been~~ is a resident of the district for 3 months and meets the requirements of the Constitution, Article II, section I, the registration commissioner may permit ~~him~~ such applicant to register as a voter and enroll as a member of any political party.

Sec. 58. 34 MRSA § 11 is enacted to read:

**§ 11. Posting of political material in institutions**

The chief administrative officer of each state hospital or institution, the Warden of the State Prison and the Superintendents of the Men's Correctional Center and the Women's Correctional Center shall each provide in at least one accessible area in each such institution an appropriate space for the posting of written political material sent for such purpose to that officer, warden or superintendent by candidates for state office or federal office in this State. Written political material means flyers, handbills or other non-periodical publications, which shall be subject to the restrictions set forth in Title 21, chapter 35.

No more than one such item shall be posted in one place on behalf of any one such candidate. Such material shall be removed after the elections for which it is intended for use. If there is a voting place within the institution, such posting space shall not be located within 250 feet of the entrance to the voting place. The posting of material pursuant to this section shall not be considered a violation of Title 21, section 1575-A or of Title 21, section 1579, subsection 17-A.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

**STATEMENT OF FACT**

This bill is the result of the Election Laws Committee's review of the election laws pursuant to a study order, H. P. 1646, and is intended to clarify these laws and to correct any errors and inconsistencies.

An explanation of the individual sections of the bill may be found in the committee's report.