

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 33
6

7 S.P. 32

In Senate, January 8, 1985

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

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Kany of Kennebec.

11 Cosponsored by Senator Berube of Androscoggin, Representative Chonko
of Topsham and Representative Melendy of Rockland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT Relating to Absentee Voting.
18

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

21 Sec. 1. 21 MRSA §1252, sub-§2-A, as amended by
22 PL 1981, c. 436, §4, is further amended to read:

23 2-A. Form of envelope. The return envelope in
24 which the absentee ballot is to be placed shall in-
25 clude on its outside a conspicuously printed summary
26 warning to the voter of the provisions of section
27 1258, section 1579, subsections 4 and 15, and Title
28 17-A, section 703. The envelope shall include on its
29 outside a place for a statement of the reason for re-
30 questing an absentee ballot and a certification to be
31 signed by the voter. The envelope shall include on
32 its outside a certification to be completed and
33 signed by an aide who assists a voter under section
34 1254, subsection 4.

1 Sec. 2. 21 MRSA §1253, sub-§5, as amended by PL
2 1977, c. 496, §26, is further amended to read:

3 5. Absentee voting in clerk's office. A person
4 who wishes to vote by absentee ballot because he will
5 not be present in the municipality or able to vote in
6 person at the voting place on election day may, with-
7 out completing an application, vote by absentee bal-
8 lot before the clerk or deputy clerk of the munici-
9 pality in the clerk's office during regular business
10 hours. The method of voting shall otherwise be as
11 prescribed in this chapter.

12 ~~The clerk or deputy clerk shall determine whether the~~
13 ~~affidavit on the return envelope is properly com-~~
14 ~~pleted.~~

15 Sec. 3. 21 MRSA §1254, as amended by PL 1983, c.
16 431, §§2 & 3, is repealed and the following enacted
17 in its place:

18 §1254. Method of voting

19 The method of voting by absentee ballot is as
20 follows.

21 1. Ballot marked and sealed. The voter must
22 mark his ballot according to section 921 or 922 so
23 that it is impossible for anyone else present to see
24 how he voted. The voter must then seal the ballot
25 and complete the certification on the envelope.

26 2. No communication. While the voter is marking
27 the ballot, there may be no communication, except as
28 provided in subsection 4, between the voter and any
29 other individual as to the person or question for
30 which the voter is to vote.

31 3. Delivery of ballot. The voter shall complete
32 the address on the envelope and mail or deliver it
33 personally to the clerk of the municipality of which
34 the voter is a resident.

35 4. Assistance. A voter who is unable to read or
36 to mark his ballot because of blindness, other physi-
37 cal disability, illiteracy, or whose religious faith
38 prevents him from marking the ballot may request an-

1 other person who is of voting age to assist the voter
2 in marking the ballot. No candidate for election may
3 act as an aide. The aide may, at the request of the
4 voter, complete and sign the certification on the
5 outside of the envelope. The aide must complete and
6 sign the certification for aides on the outside of
7 the envelope.

8 Sec. 4. 21 MRSA §1256, as amended by PL 1977, c.
9 496, §§28 & 29, is repealed and the following enacted
10 in its place:

11 §1256. Procedure on receipt

12 When the clerk receives a return envelope appar-
13 ently containing an absentee ballot, he shall observe
14 the following procedure.

15 1. Time of receipt noted. The clerk shall note
16 the date and time of delivery on each return enve-
17 lope.

18 2. Clerk to examine signatures and certifica-
19 tion. When an application is required, the clerk
20 shall compare the voter's signature on the applica-
21 tion with that on the corresponding envelope. The
22 clerk shall examine the certification on the return
23 envelope. If the signatures appear to have been made
24 by the same person, and if the certification on the
25 return envelope is properly completed, the clerk
26 shall write "OK" and his initials on the return enve-
27 lope. Otherwise, he shall note any discrepancy on
28 the return envelope, except as provided in paragraph
29 A.

30 A. A difference in signatures caused by a
31 voter's properly obtaining assistance under sec-
32 tion 1253, subsection 2-A, or section 1254, sub-
33 section 4, or both, does not constitute a dis-
34 crepancy for the purposes of this section. In
35 that case, the clerk shall write "OK" and his
36 initials on the return envelope, if the certifi-
37 cation on the envelope is properly completed.

38 Where no application is required, the clerk shall ex-
39 amine the certification on the return envelope and,
40 if it is properly completed, the clerk shall write
41 "OK" and his initials on the return envelope.

1 Otherwise, the clerk shall note any discrepancy on
2 the return envelope.

3 3. List prepared. The clerk shall prepare, in
4 duplicate, lists by districts of the names and ad-
5 resses of the voters as shown on the return enve-
6 lopes. The clerk shall maintain a copy of this list
7 for a period of 2 years. This list is a public
8 record.

9 4. Envelope and lists delivered. On election
10 day, the clerk shall deliver, or have delivered, the
11 return envelopes prescribed by section 1254 and the
12 lists required by subsection 3 to the warden of the
13 voting district in which the voter is registered, ex-
14 cept in those municipalities where the municipal of-
15 ficers have authorized the clerk to process the ab-
16 sentee ballots. If more than one return envelope is
17 received from the same voter, the clerk shall deliver,
18 or have delivered, to the warden for counting on-
19 ly the return envelope bearing the earliest date and
20 time. This subsection does not apply to municipali-
21 ties with 2 or more voting precincts where absentee
22 ballots are counted at a place other than the voting
23 district.

24 5. Centralized counting place. When the municipi-
25 pal officers have authorized the counting of absentee
26 ballots at a centralized counting place at the close
27 of voting in municipalities with 2 or more voting
28 districts, the check list shall be returned to the
29 clerk for use in processing the absentee votes. The
30 check list shall be unsealed, used in processing the
31 absentee ballots and released in accordance with sec-
32 tion 992, except that the clerk shall countersign
33 each copy. The ballots must be counted publicly so
34 that those present may observe the proceedings.

35 Sec. 5. 21 MRSA §1259, sub-§2, as amended by PL
36 1975, c. 761, §49, is repealed and the following en-
37 acted in its place:

38 2. Deposited in ballot box if correct. If the
39 warden finds that the certification is properly com-
40 pleted, that the clerk has verified that the signa-
41 ture on the envelope matches the signature on the ap-
42 plication where applicable, that the person is regis-

1 tered, and enrolled where necessary, the warden shall
2 then examine the checklist to determine whether the
3 voter voted in person at the election. The warden
4 shall then announce the name of each absentee voter
5 who has not voted at the election and remove each
6 ballot from its envelope without destroying the enve-
7 lope or unfolding the ballot. After having an elec-
8 tion clerk from a political party different than that
9 of the warden mark the letters "AV" beside the name
10 of each absentee voter on the incoming voting lists,
11 the warden shall deposit the ballot in the ballot
12 box.

13 Sec. 6. 21 MRSA §1259, sub-§3, as amended by PL
14 1977, c. 496, §30, is repealed and the following en-
15 acted in its place:

16 3. Rejected if incorrect. If the warden finds
17 that the clerk has indicated the signatures on the
18 envelope and the application, where applicable, do
19 not appear to have been made by the same person; that
20 the certification is not properly completed; that the
21 person is not registered or enrolled when necessary;
22 that the voter has voted in person; or that the bal-
23 lot was received by the clerk after the deadline, the
24 warden shall not open the envelope. The warden shall
25 write "Rejected" on it, the reason for the rejection
26 and the warden's initials.

27 Sec. 7. 21 MRSA §1259-A, sub-§1, as amended by
28 PL 1975, c. 761, §51, is further amended to read:

29 1. Envelopes and lists retained. The clerk shall
30 retain possession of return envelopes ~~with the appli-~~
31 ~~ications attached, where required,~~ and the list re-
32 quired by section 1256, subsection 4.

33 Sec. 8. 21 MRSA §1261, as amended by PL 1975, c.
34 761, §52, is repealed and the following enacted in
35 its place:

36 §1261. Irregularities disregarded

37 An absentee ballot may not be rejected for any
38 immaterial irregularity in completing the application
39 or certification on the return envelope. In order
40 for a ballot to be accepted, the envelope must con-

1 tain the voter's name and legal address typed or
2 written in ink by the clerk in the upper left hand
3 corner and the completed certifications required un-
4 der section 1252, subsection 2-A.

5 Sec. 9. 21 MRSA §1579, sub-§14, as repealed and
6 replaced by PL 1977, c. 496, §38, is repealed.

7 STATEMENT OF FACT

8 The purpose of this bill is to encourage ballot-
9 ing through the mails by removing the requirement
10 that voters' signatures be witnessed by a justice of
11 the peace or notary public. Those voters temporarily
12 away from their communities and ill persons would no
13 longer have to search out a justice of the peace or
14 notary public to witness a signature. Adequate secu-
15 rity against fraud is retained since the voter's sig-
16 nature can be compared with the signature previously
17 witnessed on the voter registration card. In addi-
18 tion, a person attempting to vote illegally by absen-
19 tee ballot may be prosecuted under Title 17-A, sec-
20 tions 702 (Class B crime) and 703 (Class C crime), as
21 well as Title 21, section 1580, subsection 2 (Class D
22 crime). The bill would streamline the absentee bal-
23 loting process, remove a potential source of improper
24 influence upon the absentee voter by allowing him to
25 vote in total privacy and ensure that persons who are
26 unable to reach a justice of the peace or notary pub-
27 lic have an opportunity to vote.

28

0052120384