

MAINE STATE LEGISLATURE

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DATE: 3/25/94

(Filing No. H-947)

LEGAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1201, L.D. 1609, Bill, "An Act to Clarify Maine Election Laws"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 21-A MRSA §112, sub-§1, as amended by PL 1993, c. 473, §3 and affected by §46, is further amended to read:

1. **Residence.** The residence of a person is that place in where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.

A. The following factors, ~~--if applicable,--are relevant to a determination--of~~ may be offered by an applicant and considered by a registrar in determining a person's intention to establish a residence under this section:

(1) A direct statement of intention by the person pursuant to section 121, subsection 1;

(2) The location of any dwelling currently occupied by the person;

~~(3) --The duration of the person's habitation at the current dwelling and the place where residence is sought to be established, if different;~~

2 ~~{4}---The--proportional--amount--of--time--the--person--is~~
3 ~~absent--from--the--place--where--residence--is--sought--to--be~~
4 ~~established--and--the--reasons--for--that--absence;~~

6 ~~{5}---The--location--of--any--real--or--personal--property~~
7 ~~owned--by--the--person;~~

8 (6) The place where any motor vehicle owned by the
9 person is registered;

10 ~~{7}---The--primary--location--of--the--person's--business,~~
11 ~~profession--or--employment,--if--any;~~

12 (8) The place where any resident residence address,
13 not a post office box, shown on a current income tax
14 return is filed;

15 (9) The residence address, not a post office box, at
16 which the person's mail is received;

17 (10) The place of issuance of residence address, not a
18 post office box, shown on any current resident hunting
19 or fishing licenses held by the person;

20 ~~{11}---The--place--of--issuance--of--any--current--business--or~~
21 ~~professional--licenses--held--by--the--person;~~

22 (12) The place of issuance of residence address, not a
23 post office box, shown on any motor vehicle operator's
24 license held by the person;

25 ~~{13}---The--location--of--any--bank--accounts--in--the--person's~~
26 ~~name;~~

27 (14) The receipt of any public benefit conditioned
28 upon residency, defined substantially as provided in
29 this subsection; or

30 ~~{15}---The--person's--community--activities,--including,--but~~
31 ~~not--limited--to--membership--in--local--social,--charitable~~
32 ~~or--business--organizations--and--religious--institutions;~~
33 ~~and~~

34 (16) Any other objective facts tending to indicate a
35 person's intention regarding that person's place of
36 residence.

37 ~~No--single--factor--described--in--this--paragraph--is~~
38 ~~determinative--of--a--person's--intention,--All--applicable~~

2 factors must be considered together to determine a person's
objectively manifested intention to establish a residence.

4 B. -- The existence of any of the following factors creates a
presumption that the person lacks the intention to establish
6 a residence under this section:

8 (1) -- The failure to file an income tax return in this
State as a resident, if the person has earned taxable
10 income;

12 (2) -- The registration of a motor vehicle in a
jurisdiction other than that in which residence is
14 sought to be established; or

16 (3) -- The possession of a motor vehicle operator's
license from a jurisdiction other than this State.

18 This presumption may be overcome by other evidence, as
20 described in paragraph A, that clearly indicates a contrary
intention.

22 Sec. 2. 21-A MRSA §112, sub-§§3 to 8, as enacted by PL 1985, c.
24 161, §6, is amended to read:

26 3. **Residence retained.** A person does not lose his the
persons's residence if he the person temporarily leaves his home
28 and goes to another country, state or place in this State with
the intent of returning.

30 4. **Separate residence.** The place where a person's family
resides is presumed to be his the person's place of residence,
32 but a person may acquire a separate residence if he the person
takes another abode with the intention of remaining there. This
34 subsection does not apply to armed forces personnel, students and
36 others covered by subsection 7.

38 5. **Spouse may have separate residence.** A married person
may be considered to have a residence separate from that of his
40 the person's spouse for the purposes of voting or holding office.
For those purposes, residence is determined as if the person were
42 single.

44 6. **Voting in another state.** A person loses his residence
in this State if he the person votes in another state's election,
46 either in person or by absentee ballot. That person is not
eligible to vote in this State until he the person again
48 qualifies under section 111.

7. **Armed forces personnel, students, institutional patients, Indians.** A person does not gain or lose a residence solely because of his the person's presence or absence while employed in the service Armed Forces of the United States or of this State, while a student in any institution of learning, while kept in any institution at public expense, ~~while confined in any penal institution~~ or while residing upon any Indian or military reservations. This subsection may not be construed to prevent a student at any institution of learning from qualifying as a voter in the municipality where the student resides while attending that institution.

8. **Voting residence retained.** A person who has gained a voting residence in a municipality retains it, if he the person so desires, when he the person becomes a patient at a federal institution or an employee of a federal agency where he the person is required to reside on land ceded to the Federal Government by the State. This subsection applies to a member of the Armed Forces or the National Guard who is required to be in a place other than that in which he the person has gained a voting residence.

Sec. 3. 21-A MRSA §112, sub-§§10 and 11, as enacted by PL 1985, c. 161, §6, are amended to read:

10. **Becoming 18 on federal property.** A person who becomes 18 years of age while residing on federal property as a patient at a federal institution or an employee of a federal agency, or while in the Armed Forces, is considered to have gained a voting residence in the municipality in which he the person resided at the time he the person became such a patient, employee or member of the Armed Forces.

11. **Spouse of member of Armed Forces.** A spouse of a member of the Armed Forces on active duty may have the same voting residence as his--or--her that person's spouse. A member of the Armed Forces on active duty, whose spouse has a place of residence in this State, may establish a residence in the place of residence of the spouse by filing an affidavit with the registrar declaring an intention to reside in that place upon severance from the Armed Forces.

Sec. 4. 21-A MRSA §121, sub-§1-A, as enacted by PL 1993, c. 473, §6 and affected by §46, is repealed and the following enacted in its place:

1-A. Identification and proof. Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 20 days of an election must be advised that the

registrar might not receive the application before that election, but that the applicant may register in person on election day.

Registration applications received by the Secretary of State from outside agencies 21 days or more before an election must be transferred to the appropriate registrar's office within 10 days of receipt. Registration applications received by the Secretary of State from outside agencies 20 days or less before an election must be transferred to the appropriate registrar's office within 5 days of receipt. Registration applications by mail must be received in the registrar's office by the close of business 15 days before election day in order for persons to appear on the list of registered voters for that election.

A person who registers during the 15 days before election day or on election day shall register in person and show proof of identity and residency. If satisfactory proof of identity and residency can not be provided to the registrar or deputy, the person casts a challenged ballot.

Sec. 5. 21-A MRSA §122, sub-§2, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

2. Notice of disposition. The registrar shall notify the applicant whether the application for registration is accepted, rejected or incomplete.

Sec. 6. 21-A MRSA §122, sub-§4, as enacted by PL 1985, c. 307, §1, is amended to read:

4. Election day registration. The registrar shall accept registrations of applicants who appear in person on election day. The registrar shall issue to each of these applicants a certificate entitling the applicant to be placed on the voting list at the voting place. Only one certificate may be issued to any person. An applicant whose address has changed since the applicant last voted must be allowed to vote at the applicant's new polling place on election day.

Sec. 7. 21-A MRSA §128, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Clerk provides list. The clerk may shall, if requested, provide the registrar with a list, certified by the clerk to be true, of the marriages, deaths and changes which that took place during the 2 years preceding the close of the period for accepting the registrations of voters to be placed on the voting list. The registrar shall use this list to update the voting list accordingly; or

Sec. 8. 21-A MRSA §129, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. **Failure to notify.** If a voter fails to notify the registrar of his a change of name or address before the close of registrations, he the voter must appear before the registrar on election day and follow the procedure outlined in section 661, if he the voter wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the voter must be allowed to vote at the new polling place, if applicable, on election day.

Sec. 9. 21-A MRSA §152, sub-§1, ¶E, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 10. 21-A MRSA §152, sub-§1, ¶G, as amended by PL 1991, c. 466, §6, is repealed.

Sec. 11. 21-A MRSA §152, sub-§1, ¶I, as amended by PL 1989, c. 694, §2, is further amended to read:

I. Sworn statement that the applicant is a United States citizen and that all information is correct;

Sec. 12. 21-A MRSA §154, sub-§1, ¶G, as amended by PL 1991, c. 466, §8, is repealed.

Sec. 13. 21-A MRSA §154, sub-§1, ¶K, as amended by PL 1989, c. 694, §3, is further amended to read:

K. Sworn statement that the applicant is a United States citizen and that all information is correct;

Sec. 14. 21-A MRSA §161, sub-§2, as amended by PL 1993, c. 473, §8 and affected by §46, is repealed and the following enacted in its place:

2. List current. A registrar shall keep the voting list current at all times by adding the names of new voters and by removing the names of those registrants who request to be removed and registrants who have died, moved from the municipality or become disqualified to vote. The Secretary of State shall by rule determine the program for voter list maintenance required by the National Voter Registration Act of 1993. A registrar may not remove the name of a registered voter from the voter list solely because the registered voter did not vote in previous elections.

A registrar may contact other municipalities within the representative district or senatorial district in which the

registrar's municipality is apportioned to ascertain whether voters on that municipality's voting list are also registered in another municipality in the district.

Sec. 15. 21-A MRSA §162, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 16. 21-A MRSA §162-A is enacted to read:

§162-A. Change of address confirmation notice and removal from list

The following provisions govern the change of address confirmation notice and removal procedures for voting lists.

1. Change of address confirmation notice. Except as provided in section 122, subsection 3, a registrar shall send by forwardable mail a change of address confirmation notice, with a postage prepaid and preaddressed return notice, to the last known place of residence of each person the registrar has identified as having a change of address. If a registrant has moved within the municipality's jurisdiction, a registrar shall change the voter's record to reflect the new address before sending the change of address confirmation notice. If a registrant has moved outside the municipality's jurisdiction, a registrar shall also include information on voter registration procedures in the new jurisdiction.

2. Removal from voting list. A registrant's name may be removed from the voting list if the registrant confirms that the registrant has moved from the municipality's jurisdiction. If a registrant fails to respond to the change of address confirmation notice, the registrant may be designated on the voting list as inactive. A registrant who has been designated as inactive and fails to vote for the next 2 general elections may be removed from the voting list. If a registrant who is designated as inactive votes at any election prior to removal from the voting list, the inactive designation of the registrant on the voting list must be removed. Address verification may be requested at the polls before allowing a registrant designated as inactive to vote.

3. Rule making. The Secretary of State shall by rule determine the design and contents of the notices required by this section.

Sec. 17. 21-A MRSA §171, sub-§1, ¶E, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 18. 21-A MRSA §171, sub-§1, ¶G, as amended by PL 1991, c. 466, §12, is repealed and the following enacted in its place:

G. Sworn statement that the applicant is a United States citizen and that all information is correct;

Sec. 19. 21-A MRSA c. 3, sub-c. VI is enacted to read:

SUBCHAPTER VI

NATIONAL VOTER REGISTRATION ACT

§180. State coordinator

The Secretary of State is the coordinator of state responsibilities under the National Voter Registration Act of 1993, referred to in this subchapter as "NVRA."

§181. Designated agencies

1 Designated voter registration agencies. The designated voter registration agencies pursuant to NVRA include, but are not limited to:

A. Inside agencies that include the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions and Bureau of Motor Vehicles; and

B. Outside agencies that include the following:

(1) The Department of Human Services, Bureau of Income Maintenance, Bureau of Health and Bureau of Rehabilitation;

(2) The armed forces recruitment offices;

(3) The public high schools; and

(4) The offices of municipal clerks and registrars.

2. Voter registration. The agencies designated in subsection 1 shall provide voter registration by January 1, 1995.

§182. Forms and notices

The design and contents of all application forms used for voter registration must be approved by the Secretary of State.

Sec. 20. 21-A MRSA §314, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

2 1. **Oath.** "I, (name of challenged person), swear that I am
4 am a registered and enrolled voter in this voting district, that I
6 am a member of the party holding this caucus, and that I have not
been enrolled in any other party in this municipality within the
last 3-months 15 days."

8 **Sec. 21. 21-A MRSA §414, sub-§1, ¶B,** as enacted by PL 1993, c.
334, §3, is amended to read:

10 B. The person has filed a petition with or paid the filing
12 fee to the Secretary of State that meets pursuant to the
14 requirements of section 412. The Secretary of State shall
16 determine if whether a petition meets the requirements of
section 412, subject to challenge and appeal under section
337.

18 **Sec. 22. Effective date.** That section of this Act that amends
20 the Maine Revised Statutes, Title 21-A, section 414, subsection
1, paragraph B takes effect July 1, 1995.

22 **Sec. 23. 21-A MRSA §602, sub-§6,** as amended by PL 1993, c.
255, §1, is further amended to read:

24 6. **Size.** The Secretary of State shall determine the size
26 of the ballots. With the permission of the Secretary of State,
the clerk may make a reasonable number of enlarged specimen
28 ballots and ~~enlarged ballots~~ in order to assist voters who are
visually impaired. The clerk may also make a reasonable number
30 of enlarged instruction posters and enlarged specimen ballots at
32 the clerk's own discretion. A voter who is visually impaired may
request of the clerk an enlarged ballot or an enlarged specimen
ballot to assist the voter.

34 **Sec. 24. 21-A MRSA §602, sub-§6-A,** as enacted by PL 1993, c.
36 255, §2, is amended to read:

38 6-A. **Record.** The clerk shall record and report to the
Secretary of State the number of enlarged specimen ballots and
40 enlarged ~~ballots~~ made for visually impaired voters.

42 **Sec. 25. 21-A MRSA §606, first ¶,** as amended by PL 1991, c.
347, §1, is further amended to read:

44 Within a reasonable time before any election, the Secretary
46 of State shall furnish each municipality with ballots, specimen
ballots, test ballots for electronic voting systems if
48 applicable, instruction posters, election return forms, posters
of specimen ballots for constitutional resolutions and statewide
50 referenda, including the Attorney General's explanatory
statements prepared under Title 1, section 353, and the summary
52 of the proposal prepared under section 901, subsection 5,

materials setting forth the full text of all constitutional resolutions and statewide referenda and other materials necessary for conducting and reporting the results of the election.

Sec. 26. 21-A MRSA §606, sub-§3, as amended by PL 1993, c. 447, §12, is further amended to read:

3. **Receipt issued; inspection of ballots in an election.** The clerk shall immediately send the Secretary of State a receipt for the ballots the clerk receives. Upon receipt of a package or box containing ~~candidate~~ ballots for a ~~special, primary or~~ general an election, the clerk shall open, in the presence of one or more witnesses, the sealed package or box containing the ballots in order to ensure that the ballots do not differ materially from the appropriate specimen ballot described in section 603. The clerk shall immediately notify the Secretary of State if a ballot differs materially from the appropriate specimen ballot described in section 603.

Sec. 27. 21-A MRSA §606, sub-§3-A, as amended by PL 1993, c. 447, §13, is repealed and the following enacted in its place:

3-A. Use of test ballots in an election. Ballots may be used to test automatic tabulating equipment under section 854. In the presence of one or more witnesses, the clerk shall clearly mark each ballot used for testing with the word "TEST" across the front side of the ballot in black or blue indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes throughout the preelection and postelection testing of the tabulating equipment.

Sec. 28. 21-A MRSA §629, sub-§4, as enacted by PL 1993, c. 255, §3, is amended to read:

4. **Booth for the visually impaired.** The clerk shall equip at least one of the voting booths at the voting place with an enlarged instruction poster ~~and specimen ballot~~, a magnifying device and an adjustable lamp for improved lighting. The clerk may also equip the voting booth with an enlarged specimen ballot at the clerk's own discretion.

Sec. 29. 21-A MRSA §722, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. **How tabulated.** The Secretary of State shall tabulate all votes which that appear by an election return to have been cast for a candidate, even though the candidate's name is misspelled, written with ~~his~~ the candidate's initials, with wrong initials, or otherwise, on the return. All candidates receiving

less than ~~1%~~ 1% of the total ~~vote~~ votes cast shall for that
office must be titled "others" when the tabulation is processed.

Sec. 30. 21-A MRSA §753, sub-§6, as enacted by PL 1985, c.
161, §6, is amended to read:

6. Registration verified. ~~As soon as reasonably possible,~~
~~the clerk shall deliver the completed application to the~~
~~registrar.~~ If the applicant is registered and enrolled where
necessary, ~~the registrar shall so certify on the application~~
ballot must be sent to the applicant. If the applicant has
registered and enrolled where necessary, under section 155, and
will attain 18 years of age on or before the date of the
election, the registrar or municipal clerk shall so certify on
the application. If not, the registrar or municipal clerk shall
write "Not registered" or "Not enrolled" on the face of the
application and sign his the registrar's or municipal clerk's
name. ~~He shall immediately return all applications to the clerk.~~

Sec. 31. 21-A MRSA §777, sub-§3, as enacted by PL 1985, c.
161, §6, is amended to read:

3. Request by relative. ~~A blood relative, former guardian~~
~~or spouse~~ member of the immediate family may complete and file
the application described in subsection 2 with the registrar.

Sec. 32. 21-A MRSA §901, first ¶, as repealed and replaced by
PL 1993, c. 352, §1, is amended to read:

To initiate proceedings for a people's veto referendum or
the direct initiative of legislation, provided in the
Constitution of Maine, Article IV, Part Third, Sections 17 and
18, a voter shall submit a written application to the Department
of the Secretary of State on a form designed by the Secretary of
State. The application must contain the names and addresses and
signatures of 5 voters, in addition to the applicant, who are
designated to receive any notices in proceedings under this
chapter. For a direct initiative, the application must contain
the full text of the proposed law. The voter submitting the
application shall sign the application in the presence of the
Secretary of State ~~or~~ the Secretary of State's designee or a
notary public.

Sec. 33. 21-A MRSA §901, 2nd ¶, as enacted by PL 1993, c. 352,
§1, is amended to read:

On receipt, the Secretary of State, or the Secretary of
State's designee shall review the application and determine the
form of the petition to be submitted to the voters. The date the
approved form of the petition is provided to the voter submitting

the application is the date of issuance for the purposes of this chapter.

Sec. 34. 21-A MRSA §903-A, sub-§§1 and 2 are enacted to read:

1. Filing. Filing of petitions in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 must be completed within 3 years of the date of issuance under this chapter.

2. Invalid petition. Petitions not filed in accordance with the deadlines specified in the Constitution of Maine, Article IV, Part Third, Section 18 within 3 years of the date of issuance under this chapter are invalid for circulation.

Sec. 35. 21-A MRSA §1061, as enacted by PL 1985, c. 161, §6, is amended to read:

§1061. Dissolution of committees

Whenever any political action committee disbands or determines that obligations will no longer be incurred and no expenditures will be made to any candidate, political committee or political party, or to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition, election or primary, and the committee has no outstanding obligations, ~~it--must~~ the committee shall file a termination report with the ~~Secretary--of--State~~ Commission on Governmental Ethics and Election Practices. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

Sec. 36. **Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 21-A, section 414, subsection 1, paragraph B takes effect July 1, 1995.

Sec. 37. **Application.** The Maine Revised Statutes, Title 21-A, section 903-A applies to all petitions that are authorized for circulation by the Secretary of State but have not been filed as well as any petitions that are filed on or after the effective date of this legislation. The Secretary of State shall attempt to notify those with outstanding authorized petitions that have not been filed of the new deadline for completion.

Sec. 38. **Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

SECRETARY OF STATE,
DEPARTMENT OF THE

Elections and Commissions

Positions	(0.5)
Personal Services	\$11,570
All Other	5,000

Provides funds for a part-time Clerk Typist II position and anticipated printing costs associated with the registration forms to implement the National Voter Registration Act.

DEPARTMENT OF THE SECRETARY
OF STATE
TOTAL

\$16,570'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

General Fund	\$16,570
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The Department of the Secretary of State will require a General Fund appropriation of \$16,570 in fiscal year 1994-95 for a part-time Clerk Typist II position and anticipated printing costs associated with the registration forms to implement the National Voter Registration Act.'

STATEMENT OF FACT

The amendment replaces the original bill and makes the following changes to the election laws:

1. Clarifies the process for determining residence for the purpose of voter registration;

COMMITTEE AMENDMENT "A" to H.P. 1201, L.D. 1609

2. Adds a new subchapter, National Voter Registration Act, which outlines the requirements for providing voter registration opportunities in state agencies pursuant to federal law;

3. Corrects a provision relating to candidates being placed on ballots for presidential preference primaries;

4. Clarifies the provisions relating to enlarged ballots for voters who are visually impaired;

5. Allows clerks to use the same procedure for inspecting candidate ballots as for inspecting referendum ballots;

6. Clarifies the procedure for recording test ballots;

7. Simplifies the Secretary of State's responsibility regarding tabulated results for write-in candidates;

8. Clarifies who may complete an application for voter registration on behalf of a member of the Armed Forces;

9. Clarifies the application process for a people's veto referendum and the direct initiative of legislation, as well as establishing an official date of issuance, which begins a period of circulation during which a voter may collect signatures for the petition; and

10. Simplifies the procedure for processing absentee ballot applications.

This amendment also adds an appropriation section and a fiscal note to the bill and conforms existing law to current drafting standards.