

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

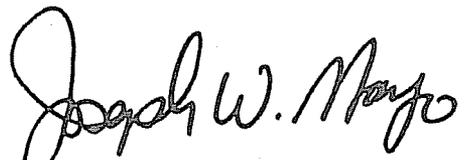
No. 1609

H.P. 1201

House of Representatives, January 3, 1994

An Act to Clarify Maine Election Laws.

Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.
Received by the Clerk of the House on December 29, 1993. Referred to the Committee on
Legal Affairs and 1200 ordered printed pursuant to Joint Rule 14.


JOSEPH W. MAYO, Clerk

Presented by Representative DAGGETT of Augusta.
Cosponsored by Representative: STEVENS of Sabattus, Senators: CAREY of Kennebec, HALL
of Piscataquis.

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

2

3 Sec. 1. 21-A MRSA §112, sub-§1, as amended by PL 1993, c. 473,
4 §3 and affected by §46, is further amended to read:

6

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

10

11 A. The following factors, ~~if applicable, are relevant to a~~
12 ~~determination of~~ may be used to determine a person's
13 ~~intention to establish a~~ residence under this section:

14

15 (1) ~~A direct statement of intention~~ An oath by the
16 person pursuant to section 121, subsection 1;

18

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

20

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

24

25 ~~(4) The proportional amount of time the person is~~
26 ~~absent from the place where residence is sought to be~~
27 ~~established and the reasons for that absence;~~

28

29 ~~(5) The location of any real or personal property~~
30 ~~owned by the person;~~

32

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

34

35 ~~(7) The primary location of the person's business,~~
36 ~~profession or employment, if any;~~

38

39 (8) The place where any resident income tax return is
40 filed;

40

41 (9) The street address at which the person's mail is
42 received;

44

45 (10) The place of issuance of any current resident
46 hunting or fishing licenses held by the person;

46

47 ~~(11) The place of issuance of any current business or~~
48 ~~professional licenses held by the person;~~

48

- 2 (12) The place of issuance of any motor vehicle
operator's license held by the person;
- 4 ~~(13) The location of any bank accounts in the person's
name;~~
- 6
- 8 (14) The receipt of any public benefit conditioned
upon residency, defined substantially as provided in
10 this subsection; or
- 12 ~~(15) The person's community activities, including, but
not limited to membership in local social, charitable
14 or business organizations and religious institutions;
and~~
- 16 (16) Any other objective facts tending to indicate a
18 person's intention regarding that person's place of
residence.

20 ~~No single factor described in this paragraph is
determinative of a person's intention. All applicable
22 factors must be considered together to determine a person's
objectively manifested intention to establish a residence.~~

24

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

28

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

32

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

36

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

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

44 **Sec. 2. 21-A MRSA §414, sub-§1, ¶B, as enacted by PL 1993, c.**
46 **334, §3, is amended to read:**

48 **B. The person has filed a petition with or paid the filing
fee to the Secretary of State ~~that meets pursuant to~~ the
requirements of section 412. The Secretary of State shall
50 determine if a petition meets the requirements of section
412, subject to challenge and appeal under section 337.**

2 **Sec. 3. 21-A MRSA §602, sub-§6**, as amended by PL 1993, c. 255,
3 §1, is further amended to read:

4
5 **6. Size.** The Secretary of State shall determine the size
6 of the ballots. With the permission of the Secretary of State,
7 the clerk may make a reasonable number of enlarged specimen
8 ballots and ~~enlarged ballots~~ in order to assist voters who are
9 visually impaired. The clerk may also make a reasonable number
10 of enlarged instruction posters and enlarged specimen ballots at
11 the clerk's own discretion.

12
13 **Sec. 4. 21-A MRSA §602, sub-§6-A**, as enacted by PL 1993, c.
14 255, §2, is amended to read:

15 **6-A. Record.** The clerk shall record and report to the
16 Secretary of State the number of enlarged specimen ballots and
17 enlarged ~~ballots~~ made for visually impaired voters.

18
19 **Sec. 5. 21-A MRSA §606, sub-§3**, as amended by PL 1993, c. 447,
20 §12, is further amended to read:

21
22 **3. Receipt issued; inspection of ballots in an election.**
23 The clerk shall immediately send the Secretary of State a receipt
24 for the ballots the clerk receives. Upon receipt of a package or
25 box containing ~~candidate~~ ballots for a ~~special, primary or~~
26 ~~general~~ an election, the clerk shall open, in the presence of one
27 or more witnesses, the sealed package or box containing the
28 ballots in order to ensure that the ballots do not differ
29 materially from the appropriate specimen ballot described in
30 section 603. The clerk shall immediately notify the Secretary of
31 State if a ballot differs materially from the appropriate
32 specimen ballot described in section 603.

33
34 **Sec. 6. 21-A MRSA §606, sub-§3-A**, as amended by PL 1993, c.
35 447, §13, is repealed and the following enacted in its place:

36
37 **3-A. Use of test ballots in an election.** Ballots may be
38 used to test automatic tabulating equipment under section 854.
39 In the presence of one or more witnesses, the clerk shall clearly
40 mark each ballot used for testing with the word "TEST" across the
41 front side of the ballot in black or blue indelible ink. The
42 clerk shall keep a record of the number of ballots used for
43 testing purposes throughout the preelection and postelection
44 testing of the tabulating equipment.

45
46 **Sec. 7. 21-A MRSA §629, sub-§4**, as enacted by PL 1993, c. 255,
47 §3, is amended to read:

48
49 **4. Booth for the visually impaired.** The clerk shall equip
50 at least one of the voting booths at the voting place with an

enlarged--instruction--poster--and--specimen--ballot, a magnifying
2 device and an adjustable lamp for improved lighting. The clerk
4 may also equip the voting booth with an enlarged instruction
poster and specimen ballot at the clerk's own discretion.

6 **Sec. 8. 21-A MRSA §722, sub-§1**, as enacted by PL 1985, c. 161,
§6, is amended to read:

8
10 **1. How tabulated.** The Secretary of State shall tabulate
12 all votes which appear by an election return to have been cast
14 for a candidate, even though the candidate's name is misspelled,
written with his initials, with wrong initials, or otherwise, on
the return. All candidates receiving less than ~~.1%~~ 1% of the
total-vote votes cast for that office shall be titled "others"
when the tabulation is processed.

16
18 **Sec. 9. 21-A MRSA §753, sub-§6**, as enacted by PL 1985, c. 161,
§6, is amended to read:

20 **6. Registration verified.** ~~As soon as reasonably possible,~~
~~the clerk shall deliver the completed application to the~~
22 ~~registrar.~~ If the applicant is registered and enrolled where
24 necessary, the registrar ~~shall so certify on the application~~
ballot must be sent. If the applicant has registered and
26 enrolled where necessary, under section 155, and will attain 18
years of age on or before the date of the election, the registrar
28 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 name.
30 ~~He shall immediately return all applications to the clerk.~~

32 **Sec. 10. 21-A MRSA §777, sub-§3**, as enacted by PL 1985, c.
161, §6, is amended to read:

34
36 **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.

38
40 **Sec. 11. 21-A MRSA §901, first ¶**, as repealed and replaced by
PL 1993, c. 352, §1, is amended to read:

42 To initiate proceedings for a people's veto referendum or
44 the direct initiative of legislation, provided in the
Constitution of Maine, Article IV, Part Third, Sections 17 and
46 18, a voter shall submit a written application to the Department
of the Secretary of State on a form designed by the Secretary of
48 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
50 chapter. For a direct initiative, the application must contain

2 the full text of the proposed law. The voter submitting the
3 application shall sign the application in the presence of the
4 Secretary of State ~~or~~, the Secretary of State's designee or a
notary public.

6 **Sec. 12. 21-A MRSA §901, 2nd ¶**, as enacted by PL 1993, c. 352,
7 §1, is amended to read:

8
9 On receipt, the Secretary of State, or the Secretary of
10 State's designee shall review the application and determine the
11 form of the petition to be submitted to the voters. The date the
12 approved form of the petition is provided to the voter submitting
13 the application is the date of issuance for the purposes of this
14 chapter.

16 **Sec. 13. 21-A MRSA §903-A, sub-§§1 and 2** are enacted to read:

17
18 1. Filing. Filing of petitions in accordance with the
19 deadlines specified in the Constitution of Maine, Article IV,
20 Part Third, Section 18 must be completed within 3 years of the
21 date of issuance under this chapter.

22
23 2. Invalid petition. Petitions not filed in accordance
24 with the deadlines specified in the Constitution of Maine,
25 Article IV, Part Third, Section 18 within 3 years of the date of
26 issuance under this chapter are invalid for circulation.

27
28 **Sec. 14. 21-A MRSA §1061**, as enacted by PL 1985, c. 161, §6,
29 is amended to read:

30 **§1061. Dissolution of committees**

31
32 Whenever any political action committee disbands or
33 determines that obligations will no longer be incurred and no
34 expenditures will be made to any candidate, political committee
35 or political party, or to initiate, support, defeat or influence
36 in any way the outcome of a referendum, initiated petition,
37 election or primary, and the committee has no outstanding
38 obligations, it must file a termination report with the Secretary
39 ~~of~~ State Commission on Governmental Ethics and Election
40 Practices. If a termination report is not filed, the committee
41 shall continue to file periodic reports as required in this
42 chapter.

43
44 **Sec. 15. Effective date.** That section of this Act that amends
45 the Maine Revised Statutes, Title 21-A, section 414, subsection
46 1, paragraph B takes effect July 1, 1995.
47
48

2

STATEMENT OF FACT

4

6 This bill corrects a provision relating to ballot access in
8 a presidential preference primary and clarifies the provisions
10 relating to enlarged ballots for visually impaired voters. This
12 bill also allows clerks to use the same procedure for inspecting
14 candidate ballots as for inspecting referendum ballots and
16 clarifies the procedure for recording test ballots. This bill
18 simplifies the Secretary of State's responsibility regarding
20 tabulated results for write-in candidates and clarifies who may
22 complete an application for voter registration on behalf of a
24 member of the Armed Forces. This bill further clarifies the
26 application process for a people's veto referendum and the direct
28 initiative of legislation, as well as establishing an official
30 date of issuance, which begins a period of circulation during
which a voter may collect signatures for the petition. In
addition, this bill simplifies the procedure for processing
absentee ballot applications and the procedure for determination
of residency for voter registration purposes.

22

24

26

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**This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.**

30