

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2023

H.P. 1519

House of Representatives, December 26, 2001

An Act to Amend the Election Laws.

Submitted by the Secretary of State pursuant to Joint Rule 204.

Received by the Clerk of the House on December 19, 2001. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative TUTTLE of Sanford.
Cosponsored by Senator DOUGLASS of Androscoggin.

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

2 **Sec. 1. 21-A MRSA §115, sub-§1**, as amended by PL 1987, c. 188,
4 §2, is repealed.

6 **Sec. 2. 21-A MRSA §154**, as amended by PL 1997, c. 436, §36,
8 is repealed.

10 **Sec. 3. 21-A MRSA §154-A** is enacted to read:

12 **§154-A. Registration and enrollment for citizens**
14 **outside the United States**

16 **1. Qualification of citizens outside United States.** A
18 person qualified to register under section 111, subsections 1 and
20 2 who resides outside the United States and does not maintain a
22 fixed and principal home or other address in the State and who is
24 not registered to vote or voting in any other state, territory or
26 possession may register and enroll using the last residence
28 address in Maine immediately before leaving the United States by
30 filing an application pursuant to subsection 3.

32 **2. Qualification of citizens who have never lived in the**
34 **United States.** A person qualified to register under section 111,
36 subsections 1 and 2 who was born outside the United States and
38 who has never lived in the United States and who is not
40 registered to vote or voting in any other state, territory or
42 possession may register and enroll using the last residence
44 address in Maine of either parent before the parent's leaving the
46 United States by filing an application pursuant to subsection 3.

48 **3. Application.** A person who is qualified to register
under subsection 1 or 2 may register and enroll by filing a
federal postcard application or an application designed by the
Secretary of State containing the following information:

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

B. Last residence address in the State immediately before
departing from the United States, including street, street
number, apartment number, municipality and zip code; or in
the case of a person qualified under subsection 2, the last
residence address in the State of either parent immediately
before departing from the United States;

C. Mailing address;

D. Date of birth;

2 E. Notification that failure to complete the entire
3 application may prevent registration;

4 F. Signature of applicant;

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

10 H. Date of application; and

12 I. Choice of political party if the applicant wishes to
13 enroll in a political party or an indication that the
14 applicant chose not to enroll in a party.

16 **Sec. 4. 21-A MRSA §411, sub-§1**, as amended by PL 1995, c. 154,
17 §2, is further amended to read:

18 **1. Determination of primary.** When the state committee of a
19 political party certifies that there is a contest among
20 candidates for nomination as the presidential candidate of the
21 party and has notified the State of its intent to participate in
22 a presidential preference primary election, the State shall hold
23 a presidential preference primary election.

26 **Sec. 5. 21-A MRSA §411-A, sub-§3**, as amended by PL 1997, c.
27 436, §61, is further amended to read:

28 **3. Statement of intent.** A statement that the party intends
29 to participate in a presidential preference primary election.
30 Such a statement of intent is irrevocable for that particular
31 presidential preference primary election; and

34 **Sec. 6. 21-A MRSA §415, sub-§1**, as repealed and replaced by PL
35 1995, c. 154, §8, is amended to read:

36 **1. Selection by convention.** Delegates must be selected by
37 state parties meeting in convention pursuant to subchapter I,
38 article III at any time after the presidential preference primary
39 election.

42 **Sec. 7. 21-A MRSA c. 5, sub-c. VI**, as amended, is repealed.

44 **Sec. 8. 21-A MRSA §605, sub-§3** is enacted to read:

46 **3. Poster for prospective registrants and voters.** The
47 Secretary of State shall prepare instruction posters to advise
48 prospective registrants and voters of their rights.

50 A. An instruction poster advising prospective registrants

2 and voters of their rights must be conspicuously posted at
3 the entrances to all polling places and voter registration
4 places.

6 **Sec. 9. 21-A MRSA §606, sub-§3**, as amended by PL 1995, c. 459,
§43, is further amended to read:

8 **3. Receipt issued; inspection of ballots in an election.**
9 Upon receipt of a package or box containing absentee ballots or
10 blank absentee ballots for an election, the clerk shall open the
11 sealed package or box of ballots and verify that the ballots do
12 not contain any errors and that the correct number of ballots has
13 been received. The clerk shall immediately notify the Secretary
14 of State if a ballot is incorrect or if the correct number of
15 ballots has not been received and shall also immediately send the
16 Secretary of State a receipt for the absentee ballots the clerk
17 receives received noting any discrepancies on the receipt. The
18 clerk shall then proceed to issue absentee ballots or blank
19 absentee ballots in response to pending requests. Upon receipt
20 of a package or box containing regular ballots for an election,
21 the clerk shall open, in the presence of one or more witnesses,
22 the sealed package or box containing the of ballots in order to
23 ensure and verify that the ballots do not contain any errors and
24 that the correct number of ballots have has been received. The
25 clerk shall immediately notify the Secretary of State if a ballot
26 is incorrect or if a sufficient the correct number of ballots has
27 not been received. Ballots to be used for testing electronic
28 tabulating devices may be removed at this time and immediately
29 marked as provided by section 3-A. The clerk shall complete the
30 clerk's portion of the warden's receipt of ballots and shall then
31 reseal the package or box of regular ballots and secure the
32 package or box of ballots until election day when it is delivered
33 to the warden at the polling place.

34 **Sec. 10. 21-A MRSA c. 9, sub-c. I-A**, as enacted by IB 1995, c.
35 2, §1, is repealed.

36 **Sec. 11. 21-A MRSA §651, sub-§1**, as amended by PL 2001, c.
37 310, §34, is further amended to read:

38 **1. Election materials sent to voting place.** Before the
39 polls are opened, the clerk shall deliver or have delivered the
40 election materials marked for each voting place to the warden at
41 that voting place. The warden shall give the clerk a receipt
42 noting the number of ballots received after the election
43 officials have opened the boxes of ballots and verified the
44 contents.

45 **A.** In Notwithstanding section 606, subsection 3, in a
46 municipality that has an island voting district, the clerk

2 may deliver the ballots and other election materials to that
district on the day before the election and leave them in
4 the protective custody of the warden or ward clerk.

6 **Sec. 12. 21-A MRSA §695, first ¶**, as enacted by PL 1985, c.
161, §6, is amended to read:

8 The election ~~officials~~ clerks shall count the ballots under
10 the supervision of the warden as soon as the polls are closed,
except that if, in the opinion of the municipal clerk the public
12 interests will best be served, referendum ballots may be counted
on the day immediately following the election, ~~provided that~~ as
14 long as the count is completed within 24 hours after the polls
are closed. If referendum ballots are counted under this
16 exception, the municipal clerk is responsible for the security
and safekeeping of the ballots until the count has been completed.

18 **Sec. 13. 21-A MRSA §698, sub-§3**, as amended by PL 2001, c.
310, §47, is further amended to read:

20 **3. Lists packed separately.** The warden and one election
22 clerk from each of the major parties shall sign the incoming
voting list certification as soon as the names of all persons who
24 have voted, including persons who have voted by absentee ballot,
have been checked off. The election clerks shall place the
26 incoming voting list in a separate package outside the containers
of used and unused ballots and seal the package with the signed
28 incoming voting list certification. The incoming voting list
30 includes any certificates entitling voters to be placed on the
voting list and any supplemental voting list, where applicable,
32 pursuant to section 122, subsection 7. The municipal clerk shall
keep the list sealed for 30 days or until the time for any
34 recount, contested election or appeal has passed, whichever is
longer. After that time period, the clerk shall unseal the list
36 and keep it in the clerk's office as a public record for the time
required pursuant to section 23.

38 **Sec. 14. 21-A MRSA §711, first ¶**, as repealed and replaced by PL
40 2001, c. 310, §48, is amended to read:

42 As soon as the results of the election have been declared,
the election return must be prepared. The warden at each ward or
44 precinct shall fill out the election return form provided by the
Secretary of State, showing the number of votes cast for each
46 candidate or question and recording the total number of state
ballots cast in that ward or precinct. The warden and one other
48 election official shall sign the return and immediately deliver
it to the municipal clerk.

50 **Sec. 15. 21-A MRSA §722, sub-§1**, as repealed and replaced by
PL 1999, c. 426, §23, is amended to read:

2 **1. How tabulated.** The Secretary of State shall tabulate
all votes that appear by an election return to have been cast
4 for --a- each question or candidate whose name appeared on the
ballot. All write-in candidates, as defined in section 1,
6 subsection 51, receiving less than 5% of the votes cast for that
office must be titled "others" when the tabulation is processed.

8
10 **Sec. 16. 21-A MRSA §723, sub-§1,** as amended by PL 2001, c.
310, §49, is further amended to read:

12 **1. Primary election.** In a primary election, the person who
receives a plurality of the votes cast for nomination to any
14 office, as long as there is at least one vote cast for that
office, is nominated for that office, except for write-in
16 candidates under paragraph A and section 722-A.

18 A. A person who has not qualified as a candidate for
nomination by primary election by filing a petition and
20 consent under sections 335 and 336, but who fulfills the
other qualifications under section 334, may be nominated at
22 the primary election if that person receives a number of
valid write-in votes equal to at least twice the minimum
24 number of signatures required under section 335, subsection
5, on a primary petition for a candidate for that office.

26 B. The Secretary of State shall immediately certify by mail
the nomination of each person nominated by the primary
28 election.

30 **Sec. 17. 21-A MRSA §723, sub-§2,** as amended by PL 1999, c.
32 426, §26, is further amended to read:

34 **2. Other elections.** In any other election, the person who
receives a plurality of the votes cast for election to any
36 office, as long as there is at least one vote cast for that
office, is elected to that office, except that write-in
38 candidates must also comply with section 722-A.

40 **Sec. 18. 21-A MRSA §752-A** is enacted to read:

42 **§752-A. Federal absentee ballot**

44 The federal absentee ballot may be used in primary and
general elections by members of the United States Armed Forces
46 and citizens outside the United States who are qualified pursuant
to section 751.

48 **Sec. 19. 21-A MRSA §801, sub-§1,** as enacted by PL 1985, c.
50 161, §6, is amended to read:

2 **1. Vote for presidential candidate construed.** A vote for
4 the candidates candidate for President and ~~Vice-President~~ is a
6 vote for the presidential electors nominated by the ~~candidates'~~
~~candidate's~~ political party or by petition.

8 **Sec. 20. 21-A MRSA §852, sub-§5,** as amended by PL 2001, c.
310, §65, is further amended to read:

10 **5. Closing of polls.** As soon as the polls have closed and
12 the last qualified voter has voted, the warden shall proceed to
~~count~~ supervise the counting of the ballots under the observation
14 of the public. The warden shall run the official tally tape from
each electronic tabulating device and shall record the total
16 votes from the tape on the tally sheet provided by the Secretary
of State. The official tally tape must be signed by the warden
18 and one election clerk from each of the major parties and must be
packed in a tamper-proof ballot box with the other election
20 materials pursuant to section 698, subsection 2-A. The warden
shall run an additional copy of the tally tape to provide to the
22 clerk with the tally sheets and the return of votes cast and may
run additional copies of the tally tape to post for public
24 review. All unused ballots must be packaged and sealed pursuant
to section 698, subsection 2-B for return to the municipal
26 clerk. The ballot box for the electronic voting device must be
opened at the polling place. The regular counted ballots are
28 placed in the tamper-proof ballot boxes and all unread or
red-lined ballots requiring hand counting or ballots containing
write-in votes that must be recorded on a write-in tally sheet
30 are counted by the election clerks. The election clerks count in
teams of 2, consisting of one election clerk from each of the
32 major parties. If it appears that any ballot is damaged so that
it can not be properly counted by the electronic tabulating
34 device, the ballot must be counted manually. Once all of the
hand counting has been completed, the election clerks shall
36 complete the tally sheets ~~and other election forms provided by~~
~~the Secretary of State and.~~ The tabulations must be signed by
38 the warden and the 2 election clerks who counted the ballots.
The election officials shall complete and sign the other election
40 forms as provided in this Title, and shall return the ballots and
other materials to the clerk packed pursuant to section 698,
42 subsections 2-A and 2-B and the incoming voting list packed
pursuant to section 698, subsection 3.

44 **Sec. 21. 21-A MRSA §904-A,** as amended by PL 1997, c. 61, §1,
46 is repealed.

48 **SUMMARY**

50 This bill permits a nonresident United States citizen who

2 was born outside the United States and who has never lived in the
United States to register and enroll using the last residence
4 address of either parent immediately before leaving the United
States. The bill clarifies that the election officials must open
6 the boxes of ballots on election day to verify the number of
ballots received. This bill sets a time certain that the
8 incoming voting list must remain sealed after an election. The
bill clarifies the information that must be included in the
10 election returns from the municipalities, as well as the
Secretary of State's tabulation of the vote. The bill also
12 specifies that a candidate must receive at least one vote in the
primary or other election in order to win by a plurality of the
14 votes cast. The bill also makes technical changes and provides
consistent language to specify who will complete and sign certain
16 election documents. The bill repeals the section of law that
restricts certain people from being able to register or vote.
18 The bill also repeals the Congressional Term Limits Act of 1996,
and the Maine Congressional Term Limitations Act of 1994. The
20 bill also repeals the section of law that prohibits payment for
collection of signatures if that payment is based on the number
22 of signatures collected and clarifies what other materials must
be sealed with the incoming voting list. The bill also provides
24 for a poster to advise prospective registrants and voters of
their rights. Finally, this bill provides for the federal
26 absentee ballot to be used by members of the United States Armed
Forces and citizens outside the United States in primary and
general elections.