

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 731

H.P. 552

House of Representatives, February 13, 2007

An Act To Preserve the Integrity of Elections by Removing the Requirement for a Challenge Affidavit

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FLETCHER of Winslow.

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

2 **Sec. 1. 21-A MRSA §673, sub-§1**, as amended by PL 2003, c. 688, Pt. B, §6, is
3 further amended to read:

4 **1. How made.** The challenge must be made to the warden. The challenger must
5 state ~~in the form of a signed affidavit setting forth, under oath administered by the~~
6 ~~warden, the challenger's name, address, party affiliation, status as a registered voter in the~~
7 ~~municipality, the name of the voter challenged and the reason for the challenge, the~~
8 ~~reason the particular individual being challenged may be ineligible to vote, the specific~~
9 ~~source of the information or personal knowledge upon which the challenge of the~~
10 ~~particular individual is based and a statement that the challenger understands that making~~
11 ~~a false statement on the affidavit is punishable under penalties of perjury.~~

12 A. A voter may challenge another voter only upon personal knowledge or a
13 reasonably supported belief that the challenged voter is unqualified. Only the
14 following reasons for challenges may be accepted by the warden. The challenged
15 person:

- 16 (1) Is not a registered voter;
- 17 (2) Is not enrolled in the proper party, if voting in a primary election;
- 18 (3) Is not qualified to be a registered voter because the challenged person:
- 19 (a) Does not meet the age requirements as specified in ~~sections~~ section 111,
20 subsection 2 and section 111-A;
- 21 (b) Is not a citizen of the United States; or
- 22 (c) Is not a resident of the municipality or appropriate electoral district
23 within the municipality;
- 24 (4) Registered to vote during the closed period or on election day and did not
25 provide satisfactory proof of identity and residency to the registrar pursuant to
26 section 121, subsection 1-A;
- 27 (5) Did not properly apply for an absentee ballot;
- 28 (6) Did not properly complete the affidavit on the absentee return envelope;
- 29 (7) Did not cast the ballot or complete the affidavit before the appropriate
30 witness;
- 31 (8) Communicated with someone as prohibited by section 754-A, subsection 1,
32 paragraph B or subsection 3, paragraph B or D;
- 33 (9) Did not have the ballot returned to the clerk by the time prescribed;
- 34 (10) Voted using the name of another;
- 35 (11) Committed any other specified violation of this Title; or
- 36 (12) Voted using the wrong ballot for the appropriate electoral district or
37 political party, if applicable.

1 B. A challenge made must be made at the time the voter being challenged is
2 checking in with the election clerk in charge of the incoming voting list in accordance
3 with section 671 but before that voter enters the voting booth, ~~except that the registrar~~
4 ~~or clerk may complete a challenge affidavit under oath to the warden before or during~~
5 ~~election day.~~

6 C. A challenge must be made against an absentee ballot after the name of the
7 absentee voter is announced by the warden or clerk in accordance with section 759
8 and before the ballot is placed into the ballot box or voting machine.

9 D. The merits of a challenge may not be decided at the time the challenge is made,
10 but only after the election consistent with the provisions of section 696.

11 **Sec. 2. 21-A MRSA §673, sub-§3**, as amended by PL 2003, c. 395, §3, is further
12 amended to read:

13 **3. Ballot marked.** The warden shall write a number on the outside of the ballot. The
14 warden shall also complete a certificate on which appears the word "Challenged," the
15 name of the voter challenged and the reason for the challenge. The challenger and the
16 warden shall sign the certificate. After the challenger has signed the certificate, the
17 warden shall place the number that was written on the ballot in a conspicuous place on
18 the certificate. Only the warden and the challenged voter may know the ballot number.
19 The warden shall place the challenge certificate ~~and the signed affidavit under subsection~~
20 ~~4~~ in a sealed envelope marked "Challenge Certificate #(certificate number)" and shall
21 retain the envelope until it is sealed with the ballot materials pursuant to section 698.

22 **Sec. 3. 21-A MRSA §673, sub-§5**, as enacted by PL 2003, c. 395, §4, is amended
23 to read:

24 **5. Regulation of challengers and challenges.** A person challenging the right of
25 another person to vote may not create a disturbance or obstruction and may not interfere
26 with or delay the challenged voter's exercise of the right to vote ~~once the challenge~~
27 ~~affidavit has been completed.~~ A challenger other than a registrar, clerk or other election
28 official may not handle or inspect registration cards or files or other materials used by the
29 registrar or clerk except as provided in section 22.

30 **Sec. 4. 21-A MRSA §696, sub-§1**, as amended by PL 2003, c. 395, §5, is further
31 amended to read:

32 **1. Challenged ballot.** A challenged ballot must be counted the same as a regular
33 ballot. The validity of a challenged ballot need not be determined unless it affects the
34 results of an election.

35 If the challenged ballot affects the result of an election, the envelope containing the
36 challenge certificate ~~and the signed affidavit under section 673, subsection 4~~ must be
37 submitted to the Supreme Judicial Court and its validity must be determined, except when
38 final determination of the election of a candidate is governed by the United States
39 Constitution.

SUMMARY

1

2 This bill amends the law concerning challenges at a voting place to remove the
3 requirement that a challenger sign an affidavit setting forth under penalties of perjury the
4 reasons for the challenge.