

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 3

S.P. 12

January 7, 2009

**An Act To Designate Registered Voters Not Enrolled in a Political
Party as Independent Voters**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator COURTNEY of York. (BY REQUEST)

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

2 **Sec. 1. 21-A MRSA §1, sub-§21-A** is enacted to read:

3 **21-A. Independent voter.** "Independent voter" means a voter who is not enrolled in a
4 political party.

5 **Sec. 2. 21-A MRSA §143, first ¶,** as amended by PL 2001, c. 310, §6, is further
6 amended to read:

7 A independent voter who is not enrolled in a party may enroll at any election by
8 personally filing the application required by section 142 with the election clerk in charge of
9 the ballots, after which the applicant may vote. If the applicant votes by absentee ballot, the
10 applicant may enroll by filing the enrollment application with the absentee ballot, except that
11 the enrollment application may not be sealed in the absentee ballot envelope.

12 **Sec. 3. 21-A MRSA §302,** as amended by PL 1999, c. 450, §§2 to 5, is further
13 amended to read:

14 **§302. Formation of new party; organization about a candidate**

15 A party whose designation was not listed on the general election ballot in the last
16 preceding general election qualifies to participate in a primary election, if it meets the
17 requirements of subsections 1 and 2.

18 **1. Declaration of intent.** A independent voter or a group of independent voters ~~not~~
19 ~~enrolled in a party qualified under section 301~~ must file a declaration of intent to form a party
20 with the Secretary of State before 5 p.m. on the 180th day preceding the next primary
21 election. The declaration of intent must be on a form designed by the Secretary of State and
22 must include:

23 A. The designation of the proposed party;

24 B. The name of a candidate for Governor or for President in the last preceding general
25 election who was nominated by petition under subchapter H 2 and who received 5% or
26 more of the total vote cast in the State for Governor or for President in that election;

27 C. The signed consent of that candidate; and

28 D. The name, address, telephone number, if published, and signature of the independent
29 voter or one of the group of independent voters who files the declaration of intent.

30 **2. Enrollment of voters.** After filing the declaration described in subsection 1, the
31 independent voter or independent voters proposing to form the party may then enroll voters in
32 the proposed party under sections 141 to 145.

33 **3. Municipal caucuses.** A party that has qualified under subsections 1 and 2 to
34 participate in a primary election must conduct municipal caucuses in at least one municipality
35 in each of the 16 counties during that election year as prescribed in Article H 2. The chair of
36 the municipal committee or a resident voter in the municipality must file a copy of the notice

1 required by section 311, subsection 3 with the Secretary of State before 5 p.m. on March
2 20th.

3 **4. Convention.** A party that has qualified under subsections 1 and 2 to participate in a
4 primary election must in that same year conduct the municipal caucuses under subsection 3
5 and hold a state convention as prescribed by Article III 3 in order to have the party
6 designation of its candidates printed on the ballot in the general election of that year. The
7 independent voter or group of independent voters ~~who~~ that files the declaration of intent may
8 perform the duties of the state committee under section 321, subsection 1 for the party's initial
9 convention.

10 **Sec. 4. 21-A MRSA §303**, as amended by PL 2001, c. 310, §16, is further amended to
11 read:

12 **§303. Formation of new party; organization by petition**

13 In addition to the procedure under section 302, a party whose designation was not listed
14 on the general election ballot in the last preceding general election qualifies to participate in a
15 primary election, if it meets the requirements of subsections 1, 2 and 3.

16 **1. Declaration of intent.** Ten or more independent voters ~~who are not enrolled in a~~
17 ~~party qualified under section 301~~ must file a declaration of intent to form a party with the
18 Secretary of State. The declaration of intent must be on a form designed by the Secretary of
19 State and must include:

20 A. The designation of the proposed party; and

21 B. The names, addresses, telephone numbers, if published, and signatures of the
22 independent voters who file the declaration of intent.

23 **2. Enrollment of voters.** After filing the declaration of intent required in subsection 1,
24 the independent voter or independent voters proposing to form the party may then enroll
25 voters in the proposed party under sections 141 to 145.

26 **3. Petition.** After the filing of the declaration described in subsection 1, the Secretary of
27 State or the Secretary of State's designee shall review the declaration and determine the form
28 of the petitions to be submitted to the voters. The independent voter or independent voters
29 proposing to form the party shall print the petitions in the form approved by the Secretary of
30 State and may then circulate the petitions. These petitions must be signed, verified and
31 certified in the same manner as primary petitions under section 335, subsections 3, 4 and 7,
32 except that independent voters ~~not enrolled in any party~~ may also sign the petitions. Each
33 page of the petition must have a caption, in conspicuous type, that contains the designation of
34 the proposed party followed by the words "Petition to participate in the primary election."
35 The petitions must be filed in the office of the Secretary of State before 5 p.m. on the 180th
36 day preceding a primary election and must contain the signatures and legal addresses of
37 voters equal in number to at least 5% of the total vote cast in the State for Governor at the last
38 preceding gubernatorial election. Petitions must be submitted to the appropriate municipal
39 registrar for certification by 5 p.m. on the 10th day before the petition must be filed in the
40 office of the Secretary of State or, if the 10th day is a Saturday, Sunday or legal holiday, by 5
41 p.m. on the next day that is not a Saturday, Sunday or a legal holiday. The registrar must

1 complete the certification of the petitions and must return them to the circulators or their
2 agents within 5 days of the date on which the petitions were submitted, Saturdays, Sundays
3 and legal holidays excepted.

4 **4. Municipal caucuses.** A party that has qualified under subsections 1, 2 and 3 to
5 participate in a primary election must conduct municipal caucuses in at least one municipality
6 in each of the 16 counties during that election year as prescribed in Article ~~II~~ 2. The chair of
7 the municipal committee or a resident voter in the municipality must file a copy of the notice
8 required by section 311, subsection 3 with the Secretary of State before 5 p.m. on March
9 20th.

10 **5. Convention.** A party that has qualified under subsections 1, 2 and 3 to participate in a
11 primary election must in that same year conduct the municipal caucuses under subsection 4
12 and hold a state convention as prescribed by Article ~~III~~ 3, in order to have the party
13 designation of its candidates printed on the ballot in the general election of that year. The
14 independent voter or group of independent voters ~~who that~~ files the declaration of intent may
15 perform the duties of the state committee under section 321, subsection 1 for the party's initial
16 convention.

17 **Sec. 5. 21-A MRSA §306**, as enacted by PL 1985, c. 161, §6, is amended to read:

18 **§306. Enrolled voters**

19 A voter who is enrolled in a party ~~which that~~ failed to meet the requirements of section
20 302 or 303, or ~~which that~~ is disqualified under section 304, is considered an ~~unenrolled~~
21 independent voter for all purposes.

22 **Sec. 6. 21-A MRSA §673, sub-§1, ¶A**, as amended by PL 2007, c. 455, §32, is
23 further amended to read:

24 A. A voter or an election official may challenge another voter only upon personal
25 knowledge or a reasonably supported belief that the challenged voter is unqualified. Only
26 the following reasons for challenges may be accepted by the warden. The challenged
27 person:

- 28 (1) Is not a registered voter;
- 29 (2) Is not enrolled in the proper party or is an independent voter, if voting in a
30 primary election;
- 31 (3) Is not qualified to be a registered voter because the challenged person:
- 32 (a) Does not meet the age requirements as specified in sections 111, subsection 2
33 and section 111-A;
- 34 (b) Is not a citizen of the United States; or
- 35 (c) Is not a resident of the municipality or appropriate electoral district within the
36 municipality;
- 37 (4) Registered to vote during the closed period or on election day and did not provide
38 satisfactory proof of identity and residency to the registrar pursuant to section 121,
39 subsection 1-A, except that only an election official may challenge for this reason;

- 1 (5) Did not properly apply for an absentee ballot;
- 2 (6) Did not properly complete the affidavit on the absentee return envelope;
- 3 (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- 4 (8) Communicated with someone as prohibited by section 754-A, subsection 1,
- 5 paragraph B or subsection 3, paragraph B or D;
- 6 (9) Did not have the ballot returned to the clerk by the time prescribed;
- 7 (10) Voted using the name of another;
- 8 (11) Committed any other specified violation of this Title; or
- 9 (12) Voted using the wrong ballot for the appropriate electoral district or political
- 10 party, if applicable.

11 **Sec. 7. 21-A MRSA §753-B, sub-§7**, as enacted by PL 1999, c. 645, §6, is amended
12 to read:

13 **7. Registration verified.** If the applicant is registered and enrolled when necessary, the
14 ballot must be sent to the applicant. If the applicant has registered and enrolled when
15 necessary under section 155 and will attain 18 years of age on or before the date of the
16 election, the registrar or clerk shall so certify on the application. If not, the registrar or clerk
17 shall write "not registered" or "~~not enrolled~~" "independent voter" on the face of the
18 application and sign the registrar's or clerk's name. Whenever an application for an absentee
19 ballot is denied, the municipal clerk shall immediately notify the applicant in writing of the
20 reason for the denial.

21 **SUMMARY**

22 This bill designates unenrolled registered voters as independent voters in the election
23 laws.