

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1232

H.P. 854

House of Representatives, March 30, 2017

**An Act To Require the Secretary of State To Automatically Register
Nonregistered Persons Who Are Qualified To Vote through Records
of the Bureau of Motor Vehicles**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GOLDEN of Lewiston.
Cosponsored by Representatives: McLEAN of Gorham, O'NEIL of Saco, PIERCE of
Falmouth, RYKERSON of Kittery, Senators: BELLOWS of Kennebec, CHENETTE of York,
MIRAMANT of Knox and Representatives: FECTEAU of Biddeford, HICKMAN of
Winthrop.

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

2 **Sec. 1. 21-A MRSA §122-A**, as enacted by PL 2005, c. 364, §4, is amended to
3 read:

4 **§122-A. Alternative registration procedure for participants in Address**
5 **Confidentiality Program**

6 Notwithstanding sections 122 and 152 and subchapter 9, a person who is certified by
7 the Secretary of State as a program participant in the Address Confidentiality Program
8 pursuant to Title 5, section 90-B may register to vote using the designated address and
9 voter code assigned to that person pursuant to rules adopted to implement the program.
10 To register to vote, a voter must present the registrar with that voter's authorization card
11 assigned to the voter pursuant to rules adopted by the Secretary of State showing that
12 voter's name, voter code, designated address and certification expiration date. The
13 registrar may contact the Address Confidentiality Program administrator in the Secretary
14 of State's office to determine the voter's eligibility to register in the municipality and to
15 verify the electoral district in which the voter is voting for purposes of issuing an
16 absentee ballot to the voter pursuant to section 753-C. All registration records for such
17 voters must be designated as confidential and kept sealed in the registrar's office. The
18 name of any voter certified as a program participant in the Address Confidentiality
19 Program may not be placed on any voter list that is available for public inspection or
20 copying.

21 **Sec. 2. 21-A MRSA §129, first ¶**, as amended by PL 2011, c. 399, §11, is further
22 amended to read:

23 ~~When~~ Notwithstanding subchapter 9, when a voter's name is changed by marriage or
24 other process of law, or when the voter moves within a municipality, the following
25 provisions apply.

26 **Sec. 3. 21-A MRSA §152, sub-§1**, as amended by PL 2015, c. 447, §§4 and 5, is
27 further amended to read:

28 **1. Application.** In addition to the ~~procedure~~ procedures provided by section 122 and
29 subchapter 9, a person may register to vote or enroll in a political party, or both, by
30 completing an application that is designed by the Secretary of State. The application
31 must include, but is not limited to:

32 A. The legal name of the voter, in one of the following combinations:

- 33 (1) First name and last name;
34 (2) First initial, middle name and last name; or
35 (3) First name, middle name or middle initial and last name;

36 B. Residence address, including street, street number, apartment number, town and
37 zip code;

38 C. Mailing address;

- 1 D. Date of birth;
- 2 F. Most recent prior residence where registered to vote, including the municipality,
3 county and state, and the name under which previously registered, if changed;
- 4 H. Notification that failure to complete the entire application may prevent
5 registration;
- 6 J. Date of application;
- 7 K. Signature of applicant;
- 8 L. Choice of political party if the applicant desires to enroll in a political party or an
9 indication that the applicant chose not to enroll in a party;
- 10 M. A place for the person's current, valid Maine driver's license number, if
11 applicable; or, if the applicant has no driver's license number, the last 4 digits of the
12 person's social security number, if applicable; or, if the applicant has neither number,
13 a place to put "none" or "not applicable"; and
- 14 N. A place for the applicant to respond to the questions concerning the voter's
15 qualifications as required by the federal Help America Vote Act of 2002, Public Law
16 107-252.

17 **Sec. 4. 21-A MRSA §195**, as amended by PL 2009, c. 564, §6, is repealed and the
18 following enacted in its place:

19 **§195. Report**

20 The Secretary of State shall report annually by January 15th to the joint standing
21 committee of the Legislature having jurisdiction over voter registration matters on the
22 administration of the central voter registration system and the automatic voter registration
23 system established pursuant to subchapter 9.

24 **1. Automatic registration efforts.** Beginning January 15, 2018, the report must
25 include the following information regarding the actions taken pursuant to subchapter 9:

- 26 A. The number of registration records that have been transferred by source agencies;
- 27 B. The number of voters added to the central voter registration system because of
28 registration records transferred by source agencies;
- 29 C. The number of voters in the central voter registration system whose information
30 was updated because of registration records transferred by source agencies;
- 31 D. The number of registration records transferred, by source agency, that do not
32 relate to individuals affirmatively identified as eligible to vote;
- 33 E. The number of individuals who chose to not register to vote; and
- 34 F. The number of voters who submitted requests to update or correct registration
35 information through the system established in subchapter 9, by type of information
36 updated.

37 As used in this subsection, "registration record" and "source agency" have the same
38 meanings as in subchapter 9.

1 2. Public access. The report may address issues of public access to the information
2 from the central voter registration system, taking into consideration the compelling state
3 interests to prevent voter fraud and the potential disenfranchisement of voters and to
4 ensure that voters are not discouraged from participating in the voting process.

5 3. Legislation. The report may include suggested legislation necessary to administer
6 the central voter registration system and the automatic voter registration system
7 implemented pursuant to subchapter 9. The joint standing committee of the Legislature
8 having jurisdiction over voter registration matters may report out legislation regarding the
9 central voter registration system and the automatic voter registration system to the
10 Legislature.

11 **Sec. 5. 21-A MRSA c. 3, sub-c. 9** is enacted to read:

12 **SUBCHAPTER 9**

13 **AUTOMATIC VOTER REGISTRATION**

14 **§231. Registration of voters by source agencies**

15 **1. Definitions.** As used in this subchapter, unless the context otherwise indicates,
16 the following terms have the following meanings.

17 A. "Bureau" means the Department of the Secretary of State, Bureau of Motor
18 Vehicles.

19 B. "Proof of voter eligibility" includes age, citizenship and residency.

20 C. "Registration record" means the electronic record created by the bureau that
21 contains the personal identifying information, including name, age, citizenship and
22 legal residence, and proof of that information, of a person applying for a driver's
23 license or nondriver identification card.

24 D. "Source agency" means a state agency or department or other entity designated as
25 a source agency pursuant to subsection 3 that, as part of the normal course of
26 business of that entity, collects documents that contain personal identification
27 information that provides proof of voter eligibility.

28 **2. Registration by source agency.** In addition to the procedures provided in
29 sections 122 and 152, an individual may be registered to vote by a source agency
30 pursuant to this section.

31 **3. Designation of bureau as source agency; other source agencies.** The bureau is
32 designated as a source agency. A source agency other than the bureau may be designated
33 or created pursuant to this subsection.

34 A. The Secretary of State may designate another state agency or department as a
35 source agency if the Secretary of State verifies that the agency or department, as part
36 of the normal course of business of that agency or department, collects documents
37 that provide proof of voter eligibility. The Secretary of State may designate as source

1 agencies other entities designated by Section 7 of the National Voter Registration Act
2 of 1993, 52 United States Code, Section 20506, including, but not limited to, public
3 or private universities or colleges, municipal and county clerk offices or entities that
4 provide services to persons with disabilities, as long as those entities, as part of the
5 entities' normal course of business, collect documents that provide proof of voter
6 eligibility.

7 B. An entity that on January 1, 2022 is designated by Section 7 of the National Voter
8 Registration Act of 1993 to provide voter registration services is designated as a
9 source agency if the entity, as part of its normal course of business, collects
10 documents that provide proof of voter eligibility.

11 C. The Governor may designate by executive order other state agencies that meet the
12 requirements of paragraph A as source agencies.

13 An agency designated as a source agency pursuant to this subsection shall follow the
14 same procedures for automatic voter registration as followed by the bureau and is subject
15 to the requirements of this section and rules adopted by the bureau, including
16 preimplementation audit and risk assessment and ongoing audits and accuracy checks.

17 **4. Federal source agencies.** The Secretary of State shall receive data from any
18 federal agency that collects proof of voter eligibility and that agrees to submit personal
19 identification information to the State for voter registration purposes.

20 **5. Transmission of proof of voter eligibility data; opportunity to opt out.** A
21 source agency that, through receipt of an application for assistance or service, including
22 licensing or certification or the renewal of the assistance or service, collects proof of
23 voter eligibility data shall transmit that data to the bureau. Any document or application
24 used by a source agency to collect proof of voter eligibility data must:

25 A. Contain notice that the information provided by the applicant could be used to
26 register the applicant to vote and that some of the applicant's information would be
27 sent to a central voter database where it would be accessible to entities other than the
28 State or the source agency; and

29 B. Provide the applicant with the ability to decline to be registered to vote.

30 **6. Registration of individual.** If information transferred pursuant to this section and
31 section 232 indicates that an individual is not included in the central voter registration
32 system and the available age, citizenship, residency and other relevant information
33 reliably indicate that the individual meets the qualifications to vote in the State and is not
34 otherwise ineligible to vote, the Secretary of State shall ensure that the individual is
35 registered as a voter and added to the central voter registration system unless the
36 individual declines to be registered to vote pursuant to subsection 5 or section 232,
37 subsection 5, paragraph A.

38 **7. Update of address.** If the information transferred pursuant to this section and
39 section 232 indicates that an individual is already included in the central voter registration
40 system and the information reliably indicates a more recent change to the individual's
41 name or address, the Secretary of State shall ensure that the individual's records in the
42 central voter registration system are updated accordingly.

1 **§232. Collection, maintenance and use of data**

2 The collection, maintenance and use of data by the bureau for voter registration under
3 this subchapter are governed by this section.

4 **1. Application; creation of registration record.** If an individual applies for a
5 driver's license or nondriver identification card from the bureau, the bureau shall scan the
6 documentation provided by the individual and create a registration record for that
7 individual, which must be stored electronically in the bureau's database. The registration
8 record and the accompanying documentation must be in a searchable, auditable format.

9 **2. Proof of citizenship.** If an individual in the course of business with the bureau
10 provides a document that incontrovertibly proves the individual is a United States citizen,
11 the registration record of that individual in the bureau's database must indicate that the
12 individual has fulfilled the citizenship eligibility requirement for the purpose of
13 registering to vote.

14 **3. Audit of data.** The Secretary of State shall audit the central voter registration
15 system for quality of data prior to implementation of the voter registration system
16 pursuant to this subchapter and periodically thereafter conduct regular audits and random
17 checks to ensure accuracy and reliability of the data.

18 **4. Sharing of certain information prohibited; penalty.** The information retained
19 by the bureau regarding citizenship status or country of origin may not be shared with any
20 federal, state or local government agency except as allowed by this subchapter. Violation
21 of this subsection is a Class E crime.

22 **5. Electronic transmission of voter registration data and notice.** If, based on an
23 individual's registration record, that individual is determined to be eligible to vote in this
24 State, the bureau shall transmit electronically the individual's registration record to
25 election officials in a format that may be reviewed by election officials and converted and
26 uploaded into the central voter registration system. The bureau also shall transmit for
27 review by election officials any changes to the address or name of an individual in the
28 central voter registration system to ensure that the voting lists are kept current.

29 Upon receiving the registration record, an election official shall notify the individual that
30 the information provided by the individual will be used to register the individual to vote,
31 making some of that individual's information accessible to entities other than the State or
32 the election official, and notify the individual of the process to:

33 A. Decline being registered as a voter; and

34 B. Adopt a political party affiliation.

35 Any notification must comply with the language requirements of Section 203 of the
36 federal Voting Rights Act of 1965, 52 United States Code, Section 10503.

37 If an individual notified under this subsection does not decline to be registered as a voter
38 within 21 calendar days after the election official issues the notification, the individual's
39 registration record submitted under this subsection must be considered a completed
40 registration.

1 **§233. Voluntary exclusion from voter list**

2 **1. Designation of individuals who request to opt out.** The Secretary of State shall
3 ensure that, upon receipt and verification of an individual's request to opt out of voter
4 registration, the individual's name and registration record are designated as unregistered,
5 unless the voter consents to registration. This subsection does not preclude an individual
6 who has previously declined voter registration from subsequently registering to vote.

7 **2. Provision of records for permitted use only.** The Secretary of State shall ensure
8 that election officials do not provide the registration record of an individual who has
9 opted out of voter registration to a 3rd party for any purpose other than the compilation of
10 a jury list.

11 **§234. Privacy and security standards**

12 The Secretary of State periodically shall review privacy and security measures
13 applied to the central voter registration system and the registration records and, as
14 provided in this section, implement standards and procedures to further safeguard the
15 confidentiality, integrity and security of the information collected, maintained, received,
16 transmitted or used pursuant to this subchapter, referred to in this section as "the data."

17 **1. Security.** All source agencies and the Secretary of State shall work individually
18 and jointly to:

19 A. Ensure the confidentiality, integrity and security of the data;

20 B. Identify and protect against any threats to the confidentiality, integrity and
21 security of the data, including impermissible uses and disclosures;

22 C. Train all persons who handle or have access to the data regarding implementation
23 of the security protocols established;

24 D. Conduct regular audits, either through a neutral 3rd party or the State Auditor,
25 and risk management assessments and pursue measures that are indicated as
26 necessary;

27 E. Provide the highest level of physical security to facilities, computers and other
28 sensitive equipment on which the data is stored;

29 F. Employ available software to detect anomalies and irregularities;

30 G. Implement measures to ensure against unauthorized access or changes in data
31 through the process of transmitting data from one agency to another; and

32 H. Develop procedures to respond immediately to a breach of the security of the data
33 and to appropriately inform the public and other necessary parties of the breach and
34 consequences of that breach.

35 **2. Privacy.** The Secretary of State shall develop, publish and enforce a privacy
36 policy with respect to the central voter registration system and the data that:

37 A. Specifies each class of internal users that have authorized access to the central
38 voter registration system, specifying for each class the permissions and levels of

1 access to be granted, and setting forth other safeguards to protect the privacy of the
2 information in the central voter registration system;

3 B. Prohibits public disclosure of any information not necessary for voter registration;

4 C. Protects against public disclosure of social security numbers, in whole or in part,
5 driver's license numbers, nondriver identification card numbers and signatures;

6 D. Prohibits public disclosure of an individual's decision not to register to vote;

7 E. Prohibits agencies from transmitting to election officials information other than
8 that required for voter registration or specified information relevant to the
9 administration of elections, such as language preference and demographic
10 information; and

11 F. Prohibits the disclosure of information relating to persons in categories designated
12 as confidential by federal or state law, including victims of domestic violence or
13 stalking, prosecutors and law enforcement personnel and participants in a witness
14 protection program.

15 **3. Records retention.** The Secretary of State shall establish standards and
16 procedures to maintain all election records required for purposes of this subchapter. The
17 registration record of an individual who has been identified as ineligible to vote within
18 the State or whose name has been removed from the central voter registration system due
19 to ineligibility must be maintained and kept available until at least the date of the 2nd
20 general election that occurs after the date that the individual was identified as ineligible.

21 **§235. Protection against liability of individuals on basis of information transferred**

22 If an individual who is ineligible to vote is registered to vote in error through the
23 operation of this subchapter, notwithstanding any provision of law to the contrary, that
24 individual may not be held criminally or civilly responsible unless that individual
25 willfully and knowingly took affirmative steps to register to vote knowing that that
26 individual was ineligible to vote or to register to vote.

27 **§236. Protections against misuse of information**

28 **1. Restriction on use of registration records.** A person may not use the central
29 voter registration system for any purpose other than voter registration, election
30 administration, the enforcement of laws against election crimes or as allowed under
31 section 196-A.

32 **2. Restriction on use of information.** Information relating to an individual's
33 absence from the central voter registration system or an individual's declining to supply
34 information for voter registration purposes at a source agency is not a public record as
35 defined in Title 1, section 402 and may not be disclosed to the public or used for any
36 purpose other than voter registration, election administration or the enforcement of laws
37 against election crimes.

1 **§237. Nondiscrimination**

2 A person acting under color of law may not discriminate against an individual on the
3 basis of the individual's absence from the central voter registration system, the
4 information supplied by the individual for voter registration purposes at a source agency
5 or the individual's declining to supply such information, except as required to administer
6 elections or enforce the laws against election crimes.

7 **§238. Rules**

8 The Secretary of State may adopt rules to implement this subchapter. Rules adopted
9 pursuant to this section are major substantive rules as defined in Title 5, chapter 375,
10 subchapter 2-A.

11 **§239. Rule of construction**

12 **1. No change to authority to maintain voting lists.** This subchapter may not be
13 construed to interfere with any election official's authority or obligation, under state or
14 federal law, to:

15 A. Determine whether an individual is qualified to be a voter; or

16 B. Conduct regular, nondiscriminatory voting list maintenance designed to ensure
17 that persons who are ineligible to vote are not reflected as voters in the central voter
18 registration system.

19 **2. Right to opt out.** This subchapter may not be construed to interfere with the right
20 of an individual to decline for any reason to be registered to vote.

21 **SUMMARY**

22 This bill establishes a method of automatically registering eligible individuals to vote.
23 The Department of the Secretary of State, Bureau of Motor Vehicles, when receiving any
24 documentation from an individual doing business with the bureau, including applying for
25 or renewing a driver's license or nondriver identification card, is required to scan and
26 electronically store the documentation provided by the applicant. If the documentation
27 provides proof of eligibility to vote, including citizenship, age and residency, that
28 individual is added to the central voter registration system and relevant information is
29 transmitted to election officials unless the individual, at the time of the collection of the
30 documentation, chooses not to be registered to vote.

31 An application or document used to collect information that may be used to register
32 an individual must contain a notice that the individual's information may be used to
33 register that individual to vote, meaning that the information would be available by
34 persons other than the State or election officials. An election official must provide the
35 same notice to an individual upon receipt of the registration record from the Bureau of
36 Motor Vehicles and also must inform the individual of the ability to choose not to be
37 registered to vote and to pick a party affiliation. If the individual fails to respond within
38 21 days, the individual is considered a registered voter.

1 The Secretary of State and the Governor are allowed to designate other state agencies
2 and departments and public and private entities, such as colleges and municipal clerk
3 offices, as so-called source agencies that are allowed to submit registration information to
4 the bureau for inclusion in the central voter registration system, but only if those
5 agencies, as part of their normal course of business, collect information that provides
6 proof of eligibility to vote. Beginning in 2022, an entity that is designated under the
7 National Voter Registration Act of 1993 as a voter-registration agency that collects
8 information that provides proof of voter eligibility is designated a source agency. A
9 source agency is required to comply with the same restrictions regarding sharing and use
10 of documentation as the bureau.

11 Information from a source agency may also be used to update an individual's voter
12 registration.