

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

§101-A. Access to records by persons or entities performing examinations or evaluations

1. Written demand for records. When a person or entity has been ordered to perform an examination or evaluation pursuant to section 101, and the person to be examined has sought the examination, joined in a request or order for the examination or has entered a plea of not guilty by reason of insanity, that person may make written demand upon any individual, partnership, association, corporation, institution or governmental entity to produce the records or copies of the records, in whatever medium preserved, of the subject of the examination or evaluation.

2. Production of records. Any such entity from whom records are demanded pursuant to subsection 1 shall produce the records or copies of the records forthwith. The production shall be made notwithstanding any other law. No entity, or employee or agent of the entity, may be criminally or civilly responsible for furnishing any records in compliance with this section.

3. Confidentiality of records. Records provided under this section shall be confidential and shall not be disseminated by any person other than upon order of the court.

4. Definition. "Records" means information about a person, in whatever medium preserved. It includes, but is not limited to, medical histories, social histories, military histories, government histories, educational histories and documentation pertaining to diagnosis or treatment.

5. Failure to produce records. Any person who is required to produce records by this section and intentionally or knowingly fails to do so within 20 days of the service of the written request upon him, may be subject to civil contempt for his failure to comply with the request.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 14, 1985.

CHAPTER 357

S.P. 032 - L.D. 33

AN ACT to Amend the Laws Relating to Absentee Voting.

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

Sec. 1. 21-A MRSA §1, sub-§9, as enacted by PL 1985, c. 161, §6, is amended to read:

9. Clerk; municipal clerk. "Clerk" or "municipal clerk" means the clerk or, deputy clerk or assistant clerk, where directed by the clerk to carry out duties under this Title, of a municipality.

Sec. 2. 21-A MRSA §673, sub-§1, ¶A is enacted to read:

A. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) Is not a registered voter;
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because he is not:
 - (a) At least 18 years of age;
 - (b) A citizen of the United States; or
 - (c) A resident of the municipality;
- (4) Did not properly apply for an absentee ballot;
- (5) Is not a qualified absentee voter as prescribed by section 751;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have his ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another; or
- (11) Committed any other specified violation of this Title.

Sec. 3. 21-A MRSA §673, sub-§3, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

3. Ballot marked. The warden shall write a number on the outside of the ballot. The warden shall also complete a certificate on which appears the word "Challenged," the name of the voter challenged and the reason for the challenge over his signature. The challenger shall also sign the certificate. After the challenger has signed the certificate, the warden shall place the number which was written on the ballot in a conspicuous place on the certificate. No one other than the warden may know the ballot number. The warden shall place the challenge certificate in an envelope marked "Challenge Certificate #(certificate number)" and shall retain the envelope until it is sealed with the ballot materials pursuant to section 698.

Sec. 4. 21-A MRSA §696, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

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

If the challenged ballot affects the result of an election, its validity must be determined by the envelope containing the challenge certificate shall be submitted to the Commission on Governmental Ethics and Election Practices and its validity shall be determined, subject to the right of appeal for county offices under section 746, except where final determination of the election of a candidate is governed by the Constitution of the State of Maine or the Constitution of the United States Constitution. The challenge certificate shall be in such form as the Secretary of State may by rule establish.

Sec. 5. 21-A MRSA §698, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Ballots replaced in containers. The election clerks shall place the sealed packages of used ballots, envelopes containing challenge certificate, unused ballots, spoiled ballots, defective ballots, void ballots, used and unused absentee ballots, used absentee envelopes and used absentee applications in the containers in which they the ballots were delivered. They shall then seal the containers publicly. The total number of used ballots, unused ballots, spoiled ballots, defective ballots and absentee bal-

lots must equal the number of ballots furnished by the Secretary of State to the municipal clerk, less the number of absentee ballots issued to voters and not returned.

Sec. 6. 21-A MRSA §751, sub-§6, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 7. 21-A MRSA §751, sub-§6-A is enacted to read:

6-A. Working when polls are open. Working during the entire time the polls in his municipality are open.

Sec. 8. 21-A MRSA §752, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

At least 3 months before any election, the Secretary of State shall furnish each municipality with a reasonable number of dated absentee ballot applications. A reasonable time, not less than 30 days unless an emergency exists, before any election, the Secretary of State shall furnish each municipality with a reasonable number of absentee ballots and return envelopes.

Sec. 9. 21-A MRSA §752, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. Form of envelope. The return envelope in which the absentee ballot is to be placed must include on its outside a conspicuously printed summary warning to the voter of the provisions of section 758; section 791, subsection 1, paragraphs A and C; and Title 17-A, section 703. The envelope must also include on its outside a place for a statement of the reason for requesting an absentee ballot and an affidavit to be signed by the voter. The envelope must also include on its outside a certification to be completed and signed by an aide who assists a voter under section 754-A, subsection 3.

Sec. 10. 21-A MRSA §753, as enacted by PL 1985, c. 161, §6, is amended to read:

§753. Procedure for obtaining

The following procedure must be observed in obtaining an absentee ballot.

1. Applications available. On request, the clerk shall furnish a reasonable number of ballot ap-

plications to any person, except that no application shall be furnished more than 3 months before the election for which the application will be used. Each application must have the date of the election for which it is to be used plainly printed on the face of the application.

2. Applications by voters outside the State. If a voter is temporarily outside of the United States the State, a written request for an absentee ballot from the voter, the voter's spouse, a blood relative of the voter or the voter's former guardian is sufficient.

2-A. Request by telephone. The clerk may issue a ballot to a voter without receiving an application by the following procedures.

A. A voter may request a ballot from the clerk by telephone.

B. The clerk shall ask the voter for the information required on the application and shall fill in the application with that information, except the voter's signature.

C. The clerk shall verify that it is the voter who is requesting the ballot by making the voter confirm the voter's residence and birthdate on the general register of voters.

D. The clerk shall mail the ballot to the voter at the mailing address requested by the voter.

If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application.

3. Application or request received. On receipt of a completed application or a request for an absentee ballot signed by the applicant, the clerk shall immediately send or deliver an absentee ballot and return envelope to the applicant or to a 3rd person designated in the application or request. The clerk shall not deliver to a 3rd person any absentee ballot requested under subsection 2-A. If a municipal election is to be held on the same date as a statewide election, absentee ballots for the municipal and statewide election may be issued in response to the same application. The clerk shall issue to any 3rd person designated in an application or request only enough absentee ballots to insure that that person will not have more than 40 absentee ballots for voters in a municipality at any time. Such a 3rd person

must, unless good cause is shown, return an absentee ballot to the clerk's office within the time limits provided in section 755. The clerk shall include a ballot application to be completed by the person who signed only a written request, unless the written request is sufficient under subsection 2. The clerk shall type or write in ink the name and the legal address of the person for whom the absentee ballot is intended in the upper left hand section of all return envelopes.

A. If the clerk receives a duplicate application from a person from whom the clerk has received a return envelope apparently containing an absentee ballot, the clerk shall not furnish another absentee ballot for that person.

B. The clerk may issue a 2nd absentee ballot to an applicant, if the applicant requests one, in person or in writing and:

(1) The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot; or

(2) An absentee ballot for the applicant which was furnished to a designated 3rd person is not returned to the clerk's office within 5 business days of the date that ballot was sent or delivered to the 3rd person or by 10 a.m. on the day before election day, whichever is earlier. This subparagraph shall not be construed to affect the time for delivery of absentee ballots under section 755.

4. Assistance to certain voters. A voter who is unable to read or complete his application because of ~~blindness, ether~~ his physical disability, illiteracy, or whose religious faith prevents him from completing the application, may request any person who is of voting age another person, other than the voter's employer or agent of that employer or officer or agent of the voter's union, to assist him in completing the application. That aide may read the application to the voter or sign it, or both, according to the voter's instructions, or may assist him in signing the application. When an aide assists a voter in this way, the aide must write on the application that he has so assisted the voter in signing the application, the reason the voter was unable to complete or sign the application, or both, and must sign his name.

5. Clerk to list. The clerk shall keep a list of the persons to whom he furnishes absentee ballots until after election day, or the clerk shall file the applications and requests in alphabetical order. The clerk shall keep a list of the persons who vote in the clerk's office presence of the clerk under subsection 7. The clerk shall submit this list to the registrar for certification before the close of business on the day before election day.

The clerk shall keep a list of the 3rd persons, designated in applications or requests, to whom absentee ballots are sent or delivered under subsection 3 and of the number of absentee ballots sent or delivered to these persons. These 3rd persons may not have more than 40 absentee ballots for voters in a municipality at any time.

6. Application checked by registrar. As soon as reasonably possible, the clerk shall deliver the completed application to the registrar. If the applicant is registered and enrolled where necessary, the registrar shall so certify on the application. If the applicant has registered and enrolled where necessary, under section 155, and will attain 18 years of age on or before the date of the election, the registrar shall so certify on the application. If not, the registrar shall write "Not registered" or "Not enrolled" on the face of the application and sign his name. He shall immediately return all applications to the clerk.

7. Absentee voting in presence of clerk. A person who wishes to vote by absentee ballot because he will not be present in the municipality or able to vote in person at the voting place on election day may, without completing an application, vote by absentee ballot before in the presence of the clerk or deputy clerk of the municipality in the clerk's office during regular business hours. The method of voting shall otherwise be as prescribed in this Article. After the person has voted, the clerk or deputy clerk shall determine whether the affidavit on the return envelope is properly completed, as described in section 754, subsection 4.

8. Denial of application. Whenever an application for an absentee ballot is denied, the municipal clerk shall immediately notify the applicant in writing of the reason for the denial.

Sec. 11. 21-A MRSA §754, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 12. 21-A MRSA §754-A is enacted to read:

§754-A. Method of voting

Except as provided in section 753, subsection 7, the method of voting by absentee ballot is as follows.

1. Ballot delivered by mail and returned by mail. When a voter obtains his ballot from the clerk by mail and returns his ballot to the clerk by mail and he receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot according to section 691 or 692 so that it is impossible for anyone present at the time to see how he voted.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. After the voter has completed marking his ballot, he must then seal the ballot in its return envelope and complete the affidavit on the envelope. No notary or witness certification is required.

D. The voter must then complete the address on the envelope and mail it to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

2. Ballot delivered by 3rd person or returned by 3rd person. When a ballot is delivered to the voter by a person other than the clerk, or is returned to the clerk by a person other than the voter and the voter receives no assistance in marking his ballot, the following procedures apply.

A. The voter must mark his ballot in the presence of the following witness or witnesses: One notary public, clerk of a municipality, dedimus justice, clerk of courts or 2 other individuals. The voter, before marking his ballot, must show it to the witness or witnesses who must examine it to be certain it is unmarked.

B. While the voter is marking the ballot, there may be no communication between the voter and any other individual as to the person or question for which the voter is to vote.

C. The voter must mark his ballot according to section 691 or 692 so that it is impossible for

anyone present at the time to see how he voted. The voter must then seal the ballot in its return envelope and complete the affidavit on the envelope in the presence of the witness or witnesses, who shall sign the witness certification.

D. The voter must then complete the address on the envelope and mail or deliver it personally or by agent to the clerk of the municipality of which he is a resident. He must send a completed application, if necessary, in a separate envelope.

3. Assistance in reading or marking ballot. A voter who is unable to read or mark his ballot because of his physical disability, illiteracy, or religious faith must vote according to the procedures in this subsection instead of the procedures in subsection 1 or 2.

A. A voter who needs assistance may request another person, other than the voter's employer or agent of that employer or officer or agent of the voter's union, to assist the voter in reading or marking the ballot.

B. The voter or the aide must mark the ballot in the presence of one of the following witnesses: Notary public, clerk of a municipality, dedimus justice, clerk of courts or another individual.

C. The voter or the aide, before marking the ballot, must show it to the witness who must examine it to be certain it is unmarked.

D. While the voter or the aide is marking the ballot, there may be no communication between the voter and any individual, other than the aide who must mark the ballot as the voter indicates, as to the person or question for which the voter is to vote.

E. The voter or the aide must mark the ballot according to section 691 or 692 so that it is impossible for anyone else present to see how the voter voted, then seal the ballot in its return envelope. The voter, or the aide at the voter's request, shall complete and sign the affidavit in the presence of the witness, who shall sign the witness certification. The aide must complete and sign the certification for aides on the outside of the envelope.

F. The voter or the aide must then complete the address on the envelope and mail or deliver it

personally or by agent to the clerk of the municipality of which the voter is a resident. The voter must send a completed application, if necessary, in a separate envelope.

Sec. 13. 21-A MRSA §756, sub-§2, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. If the signatures do not appear to have been made by the same person, but this discrepancy is apparently the result of the voter's having properly obtained assistance under either section 753, subsection 4, or section 754, ~~subsection 6~~ 754-A, subsection 3, or both, then the clerk shall note the discrepancy on the return envelope, but shall also write "OK" and his initials on the return envelope.

Sec. 14. 21-A MRSA §756, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Lists prepared. The clerk shall prepare, in duplicate, lists by districts of the names and addresses of the voters as shown on the return envelopes. He shall maintain a copy for 4 a period of 2 years as a public record.

Sec. 15. 21-A MRSA §758, as enacted by PL 1985, c. 161, §6, is amended to read:

§758. Personal vote required when possible

A person who has voted by absentee ballot, but who is present in the municipality and able to vote in person at the voting place on election day, must do so, unless that person is engaged in registering voters for that election on election day at the office of the registrar or the board of registration working during the entire time the polls in his municipality are open and, as a result, is unable to get to his voting place while the polls are open.

Sec. 16. 21-A MRSA §759, sub-§2, as enacted by PL 1985, c. 161, §6, is repealed and the following enacted in its place:

2. Deposited in ballot box if correct. If the warden finds that the affidavit is properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application where applicable, that the person is registered and enrolled where necessary, the warden shall then examine the incoming voting list to determine whether the voter voted in person at the election. The warden shall then announce the name of each ab-

sentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk from a political party different from that of the warden mark the letters "AV" beside the name of each absentee voter on the incoming voting lists, the warden shall deposit the ballot in the ballot box.

Sec. 17. 21-A MRSA §759, sub-§3, ¶A, as enacted by PL 1985, c. 161, §6, is amended to read:

A. The signatures do not appear to have been made by the same person and the discrepancy is not the result of the voter's having obtained assistance under section 753, subsection 4 or section ~~754~~, ~~subsection 6~~ 754-A, subsection 3, in cases where an application is required;

Sec. 18. 21-A MRSA §791, sub-§1, ¶¶A and B, as enacted by PL 1985, c. 161, §6, are amended to read:

A. A person who has ~~voted~~ votes by absentee ballot but who is present in the municipality and able to vote at the proper voting place on election day and fails to vote in person is ~~guilty of a Class B crime~~, unless that person was engaged in ~~registering voters for that election on election day at the office of the registrar or the board of registration working during the entire time the polls in his municipality were open and,~~ as a result, was unable to get to his voting place while the polls were open;

B. A municipal clerk who, when a person has voted by absentee ballot in the clerk's ~~office~~ presence under section 753, subsection 7, signs his name to an affidavit on the absentee ballot return envelope when the affidavit is not properly completed; or

Sec. 19. Effective date. This Act applies to all elections held after January 1, 1986.

Effective September 19, 1985, unless otherwise indicated.

CHAPTER 358

H.P. 1120 - L.D. 1616

AN ACT Renaming Registered Day Care
Providers as Home Baby-sitting Service
Providers.