

# STATE OF NEW YORK

8280--B

Cal. No. 322

2019-2020 Regular Sessions

## IN ASSEMBLY

June 11, 2019

Introduced by M. of A. WALKER, CARROLL, ORTIZ, STIRPE, L. ROSENTHAL, JEAN-PIERRE, COLTON, PERRY, LIFTON, REYES, HYNDMAN, GOTTFRIED, MOSLEY, SIMON, WEPRIN, WRIGHT, BICHOTTE, JOYNER, FRONTUS, TAYLOR, JACOBSON, SEAWRIGHT, BLAKE, BARRON, DINOWITZ, VANEL, HEVESI, COOK, RODRIGUEZ, DARLING, DE LA ROSA, STECK -- Multi-Sponsored by -- M. of A. BUCHWALD, ENGLEBRIGHT -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the election law, in relation to establishing an automatic voter registration process integrated within designated agency applications

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York automatic voter registration act of 2019".

3 § 2. Article 5 of the election law is amended by adding a new title 9  
4 to read as follows:

### TITLE IX

#### AUTOMATIC VOTER REGISTRATION

7 Section 5-900. Integrated personal voter registration application  
8 required.

9 5-902. Failure to receive exemplar signature not to prevent  
10 registration.

11 5-904. Presumption of innocent authorized error.

12 5-906. Forms.

13 § 5-900. Integrated personal voter registration application required.

14 1. In addition to any other method of voter registration provided for by  
15 this chapter, state and local agencies designated in subdivision twelve  
16 of this section shall provide to the state board of elections voter

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD05948-18-0

1 registration qualification information associated with each person who  
2 submits an application for services at such agency, or who notifies the  
3 agency of a change of address or name. Such designated agencies shall  
4 ensure agency applications substantially include all of the elements  
5 required by section 5-210 of this article, including the appropriate  
6 attestation, so that persons completing such applications shall be able  
7 to also submit an application to register to vote through the electronic  
8 voter registration transmittal system. For purposes of this section,  
9 "agency" shall mean any state or local agency, department, division,  
10 office, institution or other entity designated by the state board of  
11 elections pursuant to subdivision twelve of this section.

12 2. For each application submitted to the agency, whether electron-  
13 ically or on paper, the agency shall transmit to the state board of  
14 elections through an interface with the electronic voter registration  
15 transmittal system established and maintained by the state board of  
16 elections that portion of the application that includes voter registra-  
17 tion information. The state board of elections shall electronically  
18 forward such application to the applicable board of elections of each  
19 county or the city of New York for filing, processing and verification  
20 consistent with this chapter.

21 3. An integrated voter registration form submitted to an agency in  
22 paper format shall be transmitted to the state board of elections  
23 through an electronic voter registration transmittal system by convert-  
24 ing the paper form to an image file or a portable document format file  
25 which shall thereafter be deemed the original form for voter registra-  
26 tion and enrollment purposes. The agency shall retain the complete  
27 original paper application for no less than two years. The transmittal  
28 of the converted paper application may include or be accompanied by data  
29 elements and transmittal information as required by the rules and regu-  
30 lations of the state board of elections.

31 4. An integrated voter registration application submitted to an agency  
32 in an electronic format shall be transmitted to the state board of  
33 elections through the electronic voter registration transmittal system  
34 and shall include all of the voter registration data elements, including  
35 electronic signature, as applicable, and record of attestation of the  
36 accuracy of the voter registration information and any relevant document  
37 images.

38 5. The voter registration related portion of each agency's integrated  
39 application for services or assistance shall:

40 (a) include a statement of the eligibility requirements for voter  
41 registration and shall require the applicant to attest by his or her  
42 signature that he or she meets those requirements under penalty of  
43 perjury unless such applicant declines such registration;

44 (b) inform the applicant, in print identical to that used in the  
45 attestation section of the following:

46 (i) voter eligibility requirements;

47 (ii) penalties for submission of a false registration application;

48 (iii) that the office where the applicant applies for registration  
49 shall remain confidential and the voter registration information shall  
50 be used only for voter registration purposes;

51 (iv) that if the applicant applies to register to vote electronically,  
52 such applicant thereby consents to the use of an electronic copy of the  
53 individual's manual signature that is in the custody of the department  
54 of motor vehicles, the state board of elections, or other agency desig-  
55 nated by this section, as the individual's voter registration exemplar

1 signature if the individual voter's exemplar signature is not provided  
2 with the voter registration application; and

3 (v) if the applicant declines to register, such applicant's declina-  
4 tion shall remain confidential and be used only for voter registration  
5 purposes;

6 (c) include a box for the applicant to check to indicate whether the  
7 applicant would like to decline to register to vote along with the  
8 statement in prominent type, "IF YOU DO NOT CHECK THIS BOX, AND YOU  
9 PROVIDE YOUR SIGNATURE ON THE SPACE BELOW, YOU WILL HAVE ATTESTED TO  
10 YOUR ELIGIBILITY TO REGISTER TO VOTE AND YOU WILL HAVE APPLIED TO REGIS-  
11 TER TO VOTE.";

12 (d) include a warning statement in prominent type, "IF YOU ARE NOT A  
13 CITIZEN OF THE UNITED STATES, DO NOT CHECK THE VOTER REGISTRATION BOX  
14 BELOW. NON-CITIZENS WHO REGISTER TO VOTE MAY BE SUBJECT TO CRIMINAL  
15 PENALTIES AND SUCH VOTER REGISTRATION MAY RESULT IN DEPORTATION OR  
16 REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF  
17 NATURALIZATION.";

18 (e) include a space for the applicant to indicate his or her choice of  
19 party enrollment, with a clear alternative provided for the applicant to  
20 decline to affiliate with any party and a statement in prominent type  
21 "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN  
22 PRIMARY ELECTIONS FOR THAT PARTY.";

23 (f) include a statement that if an applicant is a victim of domestic  
24 violence or stalking, he or she may contact the state board of elections  
25 in order to receive information regarding the address confidentiality  
26 program for victims of domestic violence under section 5-508 of this  
27 article.

28 6. Information from the voter relevant to both voter registration and  
29 the agency application shall be entered by the voter only once upon an  
30 application.

31 7. The agency shall redact or remove from the completed integrated  
32 application to be transmitted to the state board of elections any infor-  
33 mation solely applicable to the agency application.

34 8. Information concerning the citizenship status of individuals, when  
35 collected and transmitted pursuant to subdivision one of this section,  
36 shall not be retained, used or shared for any other purpose except as  
37 may be required by law.

38 9. A voter shall be able to decline to register to vote using an inte-  
39 grated application by selecting a single check box, or equivalent, which  
40 shall read "I DECLINE USE OF THIS FORM FOR VOTER REGISTRATION PURPOSES.  
41 DO NOT FORWARD MY INFORMATION TO THE BOARD OF ELECTIONS".

42 10. The voter shall be able to sign the voter registration application  
43 and the agency application by means of a single manual or electronic  
44 signature unless the agency requires more than one signature for other  
45 agency purposes.

46 11. No application for voter registration shall be submitted if the  
47 applicant declines registration or fails to sign the integrated applica-  
48 tion, whether on paper or online.

49 12. Designated agencies for purposes of this section shall include all  
50 agencies designated as voter registration agencies in sections 5-211 and  
51 5-212 of this article, as well as any other agency designated by the  
52 state board of elections. Each agency shall enter into an agreement  
53 with the state board of elections finalizing the format and content of  
54 electronic transmissions required by this section. The state board of  
55 elections shall prepare and distribute to designated agencies written  
56 instructions as to the implementation of the program and shall be

1 responsible for establishing training programs for employees of desig-  
2 nated agencies listed in this section. Such instructions and such  
3 training shall ensure usability of the integrated application for low  
4 English proficiency voters. Any such designated agency shall take all  
5 actions that are necessary and proper for the implementation of this  
6 section, including facilitating technological capabilities to allow  
7 transmission of data through an interface with the electronic voter  
8 registration transmittal system in a secure manner.

9 13. The state board of elections shall promulgate rules and regu-  
10 lations for the creation and administration of an integrated electronic  
11 voter registration process as provided for by this section.

12 § 5-902. Failure to receive exemplar signature not to prevent regis-  
13 tration. If a voter registration exemplar signature is not received from  
14 an agency that receives a voter registration application pursuant to  
15 this title and such signature exemplar is not otherwise available from  
16 the statewide voter registration database or a state or local agency,  
17 the local board of elections shall, absent another reason to reject the  
18 application, proceed to register and, as applicable, enroll the appli-  
19 cant. Within ten days of such action, the board of elections shall send  
20 a standard form promulgated by the state board of elections to the voter  
21 whose record lacks an exemplar signature, requiring such voter to submit  
22 a signature for identification purposes. The voter shall submit to the  
23 board of elections a voter registration exemplar signature by any one of  
24 the following methods: in person, by mail with return postage paid  
25 provided by the board of elections, by electronic mail, or by electronic  
26 upload to the board of elections through the electronic voter registra-  
27 tion transmittal system. If such voter does not provide the required  
28 exemplar signature, when the voter appears to vote the voter shall be  
29 entitled to vote by affidavit ballot.

30 § 5-904. Presumption of innocent authorized error. 1. Notwithstanding  
31 subdivision six of section 5-210 of this article or any other law to the  
32 contrary, a person who is ineligible to vote who fails to decline to  
33 register to vote in accordance with the provisions of this section and  
34 did not willfully and knowingly seek to register to vote knowing that he  
35 or she is not eligible to do so:

36 (a) shall not be guilty of any crime as the result of the applicant's  
37 failure to make such declination;

38 (b) shall be deemed to have been registered with official authori-  
39 zation; and

40 (c) such act may not be considered as evidence of a claim to citizen-  
41 ship.

42 2. Notwithstanding subdivision six of section 5-210 of this article or  
43 any other law to the contrary, a person who is ineligible to vote who  
44 fails to decline to register to vote in accordance with the provisions  
45 of this section, who then either votes or attempts to vote in an  
46 election held after the effective date of that person's registration,  
47 and who did not willfully and knowingly seek to register to vote knowing  
48 that he or she is not eligible to do so, and did not subsequently vote  
49 or attempt to vote knowing that he or she is not eligible to do so:

50 (a) shall not be guilty of any crime as the result of the applicant's  
51 failure to make such declination and subsequent vote or attempt to vote;

52 (b) shall be deemed to have been registered with official authori-  
53 zation; and

54 (c) such act may not be considered as evidence of a claim to citizen-  
55 ship.

1 § 5-906. Forms. The state board of elections shall promulgate rules  
2 and regulations to implement this title. All agency forms and notices  
3 required by this title shall be approved by the state board of  
4 elections. All applications and notices for use by a board of elections  
5 pursuant to this title shall be promulgated by the state board of  
6 elections, and no addition or alternation to such forms by a board of  
7 elections shall be made without approval of the state board of  
8 elections.

9 § 3. The election law is amended by adding a new section 5-308 to read  
10 as follows:

11 § 5-308. Enrollment; automatic voter registration. 1. The board of  
12 elections shall, promptly and not later than twenty-one days after  
13 receipt of a voter registration application submitted pursuant to title  
14 nine of this article by a voter registering for the first time, send any  
15 such voter who did not enroll in a party a notice and a form to indicate  
16 party enrollment, with return postage paid by the board of elections.  
17 Such notice shall offer the voter the opportunity to enroll with a party  
18 or to decline to enroll with a party and contain a statement in promi-  
19 nent type "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTIC-  
20 IPATE IN PRIMARY ELECTIONS FOR THAT PARTY." Such form shall provide a  
21 clear alternative for the applicant to decline to affiliate with any  
22 party. If the board of elections has not received a response to the  
23 party enrollment notice and form within forty-five days of the applica-  
24 tion, the board shall mail a second similar notice and form to the  
25 voter.

26 2. Notwithstanding subdivision two of section 5-304 of this title, if  
27 a voter who registered to vote for the first time pursuant to title nine  
28 of this article responds to the notice required by subdivision one of  
29 this section and elects to enroll in a party, such enrollment shall take  
30 effect immediately.

31 3. If a voter appears at a primary election and votes by affidavit  
32 ballot indicating the intent to enroll in such party, such affidavit  
33 ballot shall cause the voter to be enrolled immediately in that party if  
34 the board of elections determines that the voter registered to vote for  
35 the first time pursuant to title nine of this article.

36 4. If a voter appears at a primary election and votes by affidavit  
37 ballot indicating the intent to enroll in such party, such affidavit  
38 ballot shall be cast and counted if the board of elections determines  
39 that the voter registered to vote at least twenty-five days before that  
40 primary pursuant to title nine of this article and such voter is other-  
41 wise qualified to vote in such election.

42 § 4. Paragraph (a) of subdivision 2 of section 9-209 of the election  
43 law is amended by adding a new subparagraph (vii) to read as follows:

44 (vii) If the board of elections finds that the voter registered to  
45 vote for the first time pursuant to title nine of article five of this  
46 chapter at least twenty-five days before a primary, appeared at such  
47 primary election, and indicated on the affidavit ballot envelope the  
48 intent to enroll in such party, the affidavit ballot shall be cast and  
49 counted if the voter is otherwise qualified to vote in such election.

50 § 5. This act shall take effect January 1, 2023.