STATE OF NEW YORK

7764

IN SENATE

February 21, 2018

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to providing for automatic voter registration; establishing a task force on automatic voter registration; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Title 2 of article 5 of the election law is amended by adding a new section 5-200 to read as follows:

§ 5-200. Automatic voter registration. 1. Notwithstanding any other manner of registration required by this article, each person in the state qualified to vote pursuant to section 5-102 of this article, shall be automatically registered to vote as provided in this section, provided that the person does not elect to decline registration to vote at the point of service.

2. The state board of elections or county board of elections shall register to vote or update the registration record of any person in the state qualified to vote pursuant to section 5-102 of this article who does not elect to decline registration to vote or update the registration record at the point of service and does any of the following:

(a) completes an application for a new or renewed driver's license, non-driver identification card, pre-licensing course certificate, learner's permit or certification of supervised driving with the department of motor vehicles, or notifies such department in writing of a change of his or her name or address;

(b) completes an application for services, renewal or recertification for services, or change of address relating to such services from agencies designated in section 5-211 of this title;

(c) completes an application for services, renewal or recertification for services, or change of address relating to such services from any municipal housing authority as set forth in article thirteen of the public housing law;

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

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(d) registers for classes at institutions of the state university of New York and the city university of New York;

(e) completes a maximum sentence of imprisonment or is discharged from parole;

(f) completes an application for unemployment insurance;

(g) becomes a member or employee of the New York division of military and naval affairs; or

(h) completes an application with any other state or federal agency designated as a source agency pursuant to paragraph (b) of subdivision three of this section.

3. (a) The term "source agency" includes the department of motor vehicles, any government agency designated pursuant to section 5-211 of this title, the state university of New York and the city university of New York, all public housing authorities listed in article thirteen of the public housing law, the department of corrections and community supervision, the department of labor, the New York division of military and naval affairs and any agency designated by the state board of elections pursuant to paragraph (b) of this subdivision.

(b) The state board of elections may designate additional state agencies to serve as sources for voter registration. In designating an agency under this paragraph, the state board of elections shall consider:

(i) the likelihood that source records reflect a large number of eligible citizens;

(ii) the extent to which source records reflect eligible citizens who would not otherwise be registered under the act to modernize voter registration;

(iii) the accuracy of personal identification data in source records; and

(iv) any additional factors designated by the chief election official as reasonably related to accomplishing the purposes of the act to modernize voter registration.

4. The state board of elections and the source agencies shall enter into agreements to ensure that for each person described in subdivision two of this section, each source agency electronically transmits to the state or local boards of elections the following information in a format that can be read by the computerized statewide voter registration list:

(a) given name or names and surname or surnames;

(b) mailing address and residential address;

(c) date of birth;

(d) citizenship;

(e) driver's license or non-driver identification card number, last four digits of the person's social security number, or a space for the person to indicate that he or she does not have any such number;

(f) political party enrollment, if any;

(g) an indication that the person intends to apply for an absentee ballot, if any; and

(h) an image of the person's signature.

In the event that any transmission of data pursuant to this section fails to include an image of an individual's signature, the absence of a signature shall not preclude the registration of an eligible citizen. The board of elections shall develop procedures to enable an eligible citizen, whose information is transmitted pursuant to this section and whose information lacks an electronic signature, to provide a signature at the polling place or with an application for an absentee ballot before voting. The board may require an elector who has not provided a signature before arriving at the polling place or submitting an absentee

ballot to present a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

5. If an agency does not routinely request information concerning the citizenship status of individuals, it shall maintain records sufficient to transmit to the board of elections indications of United States citizenship for each person described in subdivision two of this section, but shall not retain, use, or share any such information relating to an individual's citizenship for any other purpose.

6. Each source agency shall include for each person described in subdivision two of this section a statement that he or she shall be registered to vote, if he or she is not already so registered, provided, however, that each source agency shall provide each person described in subdivision two of this section the opportunity to elect to decline registration to vote at the point of service, and upon such election, he or she shall not be registered to vote pursuant to the procedures in this section at that time.

7. The state board of elections shall prepare and distribute to participating agencies written instructions as to the implementation of the program and shall be responsible for establishing training programs for employees of source agencies listed in this section. Training shall include requirements that employees of any source agency communicate to each individual identified in subdivision two of this section that the source agency maintains strict neutrality with respect to a person's party enrollment and all persons seeking voter registration forms and information shall be advised that government services are not conditioned on being registered to vote, or eligibility to register to vote. No statement shall be made nor any action taken to discourage the applicant from registering to vote.

8. The agreements between the state board of elections and the source agencies shall include the format in which information will be transmitted, whether and how each entity will collect, in addition to the mandatory information listed in subdivision four of this section, additional information on a voluntary basis from persons for the purpose of facilitating voter registration, the frequency of data transmissions, the procedures, and other measures that will be used to ensure the security and privacy of the information transmitted, and any other matter necessary or helpful to implement the requirements of this section.

9. Each source agency shall cooperate with the state board of elections and county board of elections to facilitate the voter registration of each person described in subdivision two of this section, and to electronically transmit the information needed to register each such person to vote or to update each such person's voter registration record.

10. Each source agency shall enter into an agreement with the state board of elections finalizing the format and content of electronic transmissions required by this section no later than September first, two thousand nineteen; provided, that each source agency shall be able to comply fully with all requirements of this section, including the collection and transmission of all data required to register individuals to vote, by January first, two thousand twenty.

§ 2. Subdivision 5 of section 5-210 of the election law is amended by adding a new paragraph (n) to read as follows:

(n) Agreements adopted pursuant to section 5-200 of this title between source agencies and the state or county boards of elections are not required to include the collection or transmission of the information

requested in paragraph (j) or subparagraph (i), (viii), (x) or (xii) of paragraph (k) of this subdivision, and no board of election shall refuse to register to vote or update the registration record of any person in the state whose information is transmitted pursuant to section 5-200 of this title for the reason that such information does not include the information requested by paragraph (j) or subparagraph (i), (viii), (x) or (xii) of paragraph (k) of this subdivision.

§ 3. The opening paragraph and subdivisions 11 and 12 of section 5-211 of the election law, the opening paragraph as amended by chapter 265 of the laws of 2013, subdivision 11 as amended by chapter 200 of the laws of 1996 and subdivision 12 as added by chapter 659 of the laws of 1994, are amended to read as follows:

Each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices which provide public assistance and/or provide state funded programs primarily engaged in providing services to persons with disabilities are hereby designated as voter registration agencies: designated as the state agencies which provide public assistance are the office of children and family services, the office of temporary and disability assistance and the department of health. Also designated as public assistance agencies are all agencies of local government that provide such assistance. Designated as state agencies that provide programs primarily engaged in providing services to people with disabilities are the department of labor, office for the aging, division of veterans' affairs, office of mental health, office of vocational and educational services for individuals with disabilities, commission on quality of care for the mentally disabled, office [~~of mental retardation and~~] for people with developmental disabilities, commission for the blind, office of alcoholism and substance abuse services, the office of the advocate for the disabled and all offices which administer programs established or funded by such agencies. Additional [~~state~~] agencies designated as voter registration offices are the department of state [~~and~~], the division of workers' compensation, the state university of New York, the city university of New York, all public housing authorities listed in article thirteen of the public housing law, the department of corrections and community supervision and the New York division of military and naval affairs. Such agencies shall be required to offer voter registration forms to and provide for automatic voter registration, pursuant to section 5-200 of this title, for persons upon initial application for services, renewal or recertification for services and change of address relating to such services. Such agencies shall also be responsible for providing assistance to applicants in completing voter registration forms, receiving and transmitting the completed application form from all applicants who wish to have such form transmitted to the appropriate board of elections. The state board of elections shall, together with representatives of the department of defense, develop and implement procedures for including recruitment offices of the armed forces of the United States as voter registration offices when such offices are so designated by federal law. The state board shall also make request of the United States Immigration and Naturalization Service to include applications for registration by mail with any materials which are given to new citizens. [~~All institutions of the state university of New York and the city university of New York, shall, at the beginning of the school year, and again in January of a year in which the president of the United States is to be elected, provide an applica-~~

~~tion for registration to each student in each such institution.~~] The state board of elections may, by regulation, grant a waiver from any or all of the requirements of this section to any office or program of an agency, if it determines that it is not feasible for such office or program to administer such requirement.

11. The participating agency shall transmit [~~the completed applications for registration and change of address forms~~] all information collected pursuant to section 5-200 of this title to the appropriate board of elections not later than ten days after receipt except that all such completed applications and forms received by the agency between the thirtieth and twenty-fifth day before an election shall be transmitted in such manner and at such time as to assure their receipt by such board of elections not later than the twentieth day before such election.

12. [~~Completed application forms, when received~~] All information collected pursuant to section 5-200 of this title by a participating agency not later than the twenty-fifth day before the next ensuing primary, general or special election and transmitted by such agency to the appropriate board of elections so that they are received by such board not later than the twentieth day before such election shall entitle the applicant to vote in such election provided the board determines that the applicant is otherwise qualified.

§ 4. Subdivision 14 of section 5-211 of the election law, as amended by chapter 200 of the laws of 1996, is amended and two new subdivisions 18 and 19 are added to read as follows:

14. Applications shall be processed by the board of elections in the manner prescribed by [~~section~~] sections 5-200 and 5-210 of this title or, if the applicant is already registered to vote from another address in the county or city, in the manner prescribed by section 5-208 of this title. The board shall send the appropriate notice of approval or rejection as required by either subdivision nine of such section 5-210 or subdivision five of such section 5-208.

18. All colleges and universities located in this state shall make voter registration forms available to any students eligible to register to vote under paragraph (g) of subdivision five of section 5-210 of this title in the same manner and subject to the same provisions and rules and regulations as all other designated agencies under this section; except that a college or university that is not otherwise designated as a source agency pursuant to section 5-200 of this title shall not be required to collect or maintain forms containing a person's declination to register to vote as required by subdivision ten of this section, or to conduct a study and report thereon as required by subdivision seventeen of this section.

19. The state board of elections or, in the city of New York, the New York city board of elections, shall provide to public colleges and universities a sufficient quantity of coded voter registration applications that identify each such application as originating from either a public college or university. The state board of elections shall provide for the delivery of such coded applications by the first day of August of each year to each college or university covered by this chapter, except that the New York city board of elections shall provide and deliver such forms to each participating public university or college located in the city of New York. Every board of elections scanning voter registration forms shall capture any designated agency codes thereon and report them on a monthly basis to the state board of elections which shall make such detailed information available to the public.

§ 5. Subdivisions 6 and 7 of section 5-212 of the election law, subdivision 6 as amended by chapter 200 of the laws of 1996 and subdivision 7 as added by chapter 659 of the laws of 1994, are amended to read as follows:

6. The department of motor vehicles shall transmit [~~that portion of the form which constitutes the completed application for registration or change of address form~~] **all information collected pursuant to section 5-200 of this title** to the appropriate board of elections not later than ten days after receipt except that all such completed applications and forms received by the department between the thirtieth and twenty-fifth day before an election shall be transmitted in such manner and at such time as to assure their receipt by such board of elections not later than the twentieth day before such election. All transmittals shall include original signatures **or an electronic image thereof as required by subdivision four of section 5-200 of this title**.

7. [~~Completed application forms received~~] **All information collected pursuant to section 5-200 of this title** by the department of motor vehicles not later than the twenty-fifth day before the next ensuing primary, general or special election and transmitted by such department to the appropriate board of elections so that they are received not later than the twentieth day before such election shall entitle the applicant to vote in such election provided the board determines that the applicant is otherwise qualified.

§ 6. Section 8-302 of the election law is amended by adding a new subdivision 3-d to read as follows:

3-d. A person appearing on election day whose name cannot be found or whose information is incomplete or incorrect on the statewide voter registration list and who affirms that that he or she interacted with a source agency listed in subdivision three of section 5-200 of this chapter and consented to voter registration shall be permitted to cast an affidavit ballot. Such affidavit ballot shall be counted if at the polling place, the person presents proof of identity and evidence of registering to vote or performing any of the activities specified in subdivision two of section 5-200 of this chapter, and there is no affirmative proof that the person is ineligible to register to vote or that the person did not register or perform any of the activities specified in subdivision two of section 5-200 of this chapter.

(a) A person may swear to and subscribe to an affidavit stating that the person has registered to vote or performed any of the activities in subdivision two of section 5-200 of this chapter and consented to use agency information for voter registration. That affidavit shall be sufficient evidence of registering to vote or performing any of the activities specified in subdivision two of section 5-200 of this chapter for the purposes of this section.

(b) A person without identification may swear to and subscribe to an affidavit stating that the person did not present documentary proof of identity, but that all of the identifying information on the affidavit ballot envelope is complete and accurate. That affidavit shall be sufficient evidence of identity for the purposes of this section. Nothing in this subdivision shall be deemed to override the provisions of subdivision two-a of this section governing the requirements for a person whose name appears in the computer generated registration list with a notation indicating that the voter's identity was not yet verified as required by the federal Help America Vote Act.

§ 7. Subdivision 1 of section 3-220 of the election law, as amended by chapter 104 of the laws of 2010, is amended to read as follows:

1. All registration records, certificates, lists, and inventories referred to in, or required by, this chapter shall be public records and open to public inspection under the immediate supervision of the board of elections or its employees and subject to such reasonable regulations as such board may impose, provided, however, that **no data transmitted pursuant to section 5-200 of this chapter shall be considered a public record open to public inspection solely by reason of its transmission and that the following information shall not be released for public inspection:**

(a) any voter's signature;

(b) the personal residence and contact information of any voter for whom any provision of law requires confidentiality;

(c) any portion of a voter's driver's license number, [~~**department of motor vehicle**~~] non-driver [~~**photo ID**~~] **identification card** number, social security number and facsimile number [~~**shall not be released for public inspection**~~]**;**

(d) any voter's telephone number; and

(e) any voter's email address. No such records shall be handled at any time by any person other than a member of a registration board or board of inspectors of elections or board of elections except as provided by rules imposed by the board of elections.

§ 8. (a) A task force on automatic voter registration shall be established by the state board of elections to examine, evaluate and make recommendations concerning the implementation and affects of the provisions of this act.

(b) The task force shall consist of two commissioners of the state board of elections appointed by majority vote of the state board of elections, the commissioner of motor vehicles, and members appointed by the state board of elections who shall represent such interests as such board shall deem to be relevant to the provisions of this act, including:

(1) the state university of New York;
(2) the city university of New York;
(3) the board of elections of the city of New York;
(4) county boards of elections throughout the state;
(5) state agencies affected by the provisions of this act;
(6) the department of corrections and community supervision;
(7) the department of labor;
(8) the division of military and naval affairs; and
(9) municipal housing authorities.

(c) The members of the task force shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this section.

(d) Within one year of the effective date of this section, and annually thereafter, the task force shall report its findings, conclusions and recommendations to the governor and the legislature.

§ 9. This act shall take effect one year after it shall have become a law; provided that section eight of this act shall expire and be deemed repealed five years after such effective date.