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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 -- 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 2020".
3   § 2. Article 5 of the election law is amended by adding a new title 9
4 to read as follows:
5   **TITLE IX**
6   **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 subdivisions thir-**
16 **teen and fourteen of this section shall provide to the state board of**
17 **elections voter registration qualification information associated with**
18 **each person who submits an application for services or assistance at**

1   such agency, including a renewal, recertification, or reexamination
2   transaction at such agency, and each person who notifies the agency of a
3   change of address or name. For the purposes of the department of motor
4   vehicles, "application for services or assistance at such agency" refers
5   only to an application for a motor vehicle driver's license, a driver's
6   license renewal or an identification card if such card is issued by the
7   department of motor vehicles in its normal course of business. For
8   purposes of the New York city housing authority "application for
9   services or assistance at such agency" refers only to applications that
10 reach an eligibility interview and reexamination transactions. Such
11 designated agencies shall ensure agency applications substantially
12 include all of the elements required by section 5-210 of this article,
13 including the appropriate attestation, so that persons completing such
14 applications shall be able to also submit an application to register to
15 vote through the electronic voter registration transmittal system. For
16 purposes of this section, "agency" shall mean any state or local agency,
17 department, division, office, institution or other entity designated in
18 subdivision thirteen of this section or designated by the governor
19 pursuant to subdivision fourteen of this section. For purposes of this
20 section, registration shall also include pre-registration pursuant to
21 section 5-507 of this article.
22   2. For each application submitted to the agency, whether electron-
23 ically or on paper, the agency shall transmit to the state board of
24 elections through an interface with the electronic voter registration
25 transmittal system established and maintained by the state board of
26 elections that portion of the application that includes voter registra-
27 tion information. The state board of elections shall electronically
28 forward such application to the applicable board of elections of each
29 county or the city of New York for filing, processing and verification
30 consistent with this chapter.
31   3. An integrated voter registration form submitted to an agency in
32 paper format shall be transmitted to the state board of elections
33 through an electronic voter registration transmittal system by convert-
34 ing the paper form to an image file or a portable document format file
35 which shall thereafter be deemed the original form for voter registra-
36 tion and enrollment purposes. The agency shall retain the complete
37 original paper application for no less than two years. The transmittal
38 of the converted paper application may include or be accompanied by data
39 elements and transmittal information as required by the rules and regu-
40 lations of the state board of elections.
41   4. An integrated voter registration application submitted to an agency
42 in an electronic format shall be transmitted to the state board of
43 elections through the electronic voter registration transmittal system
44 and shall include all of the voter registration data elements, including
45 electronic signature, as applicable, and record of attestation of the
46 accuracy of the voter registration information and any relevant document
47 images.
48   5. Notwithstanding any other law to the contrary, no agency designated
49 under this section shall transmit to the state board of elections any
50 application for registration for a person that indicates on the inte-
51 grated personal voter registration application that they do not meet one
52 of the eligibility requirements.
53   6. The voter registration related portion of each agency's integrated
54 application for services or assistance shall:
55   (a) include a statement of the eligibility requirements for voter
56 registration and shall require the applicant to attest by his or her

1 signature that he or she   meets   those   requirements   under   penalty   of
2 perjury unless such applicant declines such registration;
3   (b) inform the applicant, in print identical to that used in the
4 attestation section of the following:
5   (i) voter eligibility requirements;
6   (ii) penalties for submission of a false registration application;
7   (iii) that the office where the applicant applies for registration
8 shall remain confidential and the voter registration information shall
9 be used only for voter registration purposes;
10   (iv) that if the applicant applies to register to vote electronically,
11 such applicant thereby consents to the use of an electronic copy of the
12 individual's manual signature that is in the custody of the department
13 of motor vehicles, the state board of elections, or other agency desig-
14 nated by this section, as the individual's voter registration exemplar
15 signature if the individual voter's exemplar signature is not provided
16 with the voter registration application;
17   (v) if the applicant declines to register, such applicant's declina-
18 tion shall remain confidential and be used only for voter registration
19 purposes; and
20   (vi) that applying to register or declining to register to vote will
21 not affect the amount of assistance that the applicant will be provided
22 by this agency;
23   (c) include a box for the applicant to check to indicate whether the
24 applicant would like to decline to register to vote along with the
25 following statement in prominent type, "IF YOU DO NOT CHECK THIS BOX,
26 AND YOU PROVIDE YOUR SIGNATURE ON THE SPACE BELOW, YOU WILL HAVE
27 ATTESTED TO YOUR ELIGIBILITY TO REGISTER OR PRE-REGISTER TO VOTE AND YOU
28 WILL HAVE APPLIED TO REGISTER OR PRE-REGISTER TO VOTE.";
29   (d) include the following warning statement in prominent type, "IF YOU
30 ARE NOT A CITIZEN OF THE UNITED STATES, YOU MUST CHECK THE BOX BELOW.
31 NON-CITIZENS WHO REGISTER OR PRE-REGISTER TO VOTE MAY BE SUBJECT TO
32 CRIMINAL PENALTIES AND SUCH VOTER REGISTRATION OR PRE-REGISTRATION MAY
33 RESULT IN DEPORTATION OR REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED
34 STATES, OR DENIAL OF NATURALIZATION.";
35   (e) include a space for the applicant to indicate his or her choice of
36 party enrollment, with a clear alternative provided for the applicant to
37 decline to affiliate with any party and the following statement in prom-
38 inent type "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTIC-
39 IPATE IN PRIMARY ELECTIONS FOR THAT PARTY".
40   (f) include a statement that if an applicant is a victim of domestic
41 violence or stalking, he or she may contact the state board of elections
42 in order to receive information regarding the address confidentiality
43 program for victims of domestic violence under section 5-508 of this
44 article.
45   7. Information from the voter relevant to both voter registration and
46 the agency application shall be entered by the voter only once upon an
47 application.
48   8. The agency shall redact or remove from the completed integrated
49 application to be transmitted to the state board of elections any infor-
50 mation solely applicable to the agency application.
51   9. Information concerning the citizenship status of individuals, when
52 collected and transmitted pursuant to subdivision one of this section,
53 shall not be retained, used or shared for any other purpose except as
54 may be required by law.
55   10. A voter shall be able to decline to register to vote using an
56 integrated application by selecting a single check box, or equivalent,

1 which shall include the following statement: "I DECLINE USE OF THIS FORM
2 FOR VOTER REGISTRATION AND PRE-REGISTRATION PURPOSES. DO NOT FORWARD MY
3 INFORMATION TO THE BOARD OF ELECTIONS."
4   11. The voter shall be able to sign the voter registration application
5 and the agency application by means of a single manual or electronic
6 signature unless the agency requires more than one signature for other
7 agency purposes.
8   12. No application for voter registration shall be submitted if the
9 applicant declines registration or fails to sign the integrated applica-
10 tion, whether on paper or online.
11   13. Designated agencies for purposes of this section shall include the
12 department of motor vehicles, the department of health, the office of
13 temporary and disability assistance, the department of labor, the office
14 of vocational and educational services for individuals with disabili-
15 ties, county and city departments of social services, and the New York
16 city housing authority, as well as any other agency designated by the
17 governor. Each designated agency shall enter into an agreement with the
18 state board of elections finalizing the format and content of electronic
19 transmissions required by this section. The state board of elections
20 shall prepare and distribute to designated agencies written instructions
21 as to the implementation of the program and shall be responsible for
22 establishing training programs for employees of designated agencies
23 listed in this section. Such instructions and such training shall
24 ensure usability of the integrated application for low English profi-
25 ciency voters. Any such designated agency shall take all actions that
26 are necessary and proper for the implementation of this section, includ-
27 ing facilitating technological capabilities to allow transmission of
28 data through an interface with the electronic voter registration trans-
29 mittal system in a secure manner.
30   14. Each year, the governor shall conduct a review of each participat-
31 ing agency under section 5-211 of this article not already designated as
32 an automatic voter registration agency pursuant to this subdivision in
33 order to determine whether designation is appropriate. The governor
34 shall designate each participating agency that collects information or
35 documents that would provide proof of eligibility to vote unless the
36 governor determines that there are compelling reasons why automatic
37 voter registration is not feasible at the agency. If the governor should
38 determine that there are compelling reasons why automatic voter regis-
39 tration is not feasible at an agency, the governor shall prepare a
40 report explaining those reasons to the legislature by the end of the
41 calendar year in which that determination is made. Any agency designated
42 by the governor pursuant to this subdivision shall provide automatic
43 voter registration upon the earlier occurrence of: (a) two years after
44 designation by the governor, or (b) five days after the date of certif-
45 ication by the state board of elections that the information technology
46 infrastructure to substantially implement the provisions of this section
47 at the agency is functional.
48   15. The state board of elections shall promulgate rules and regu-
49 lations for the creation and administration of an integrated electronic
50 voter registration process as provided for by this section.
51   16. Each participating agency shall provide an opportunity through
52 rulemaking for public notice and comment regarding the plans for imple-
53 mentation in the agency. Such opportunity must be provided sufficiently
54 in advance of implementation to allow for adjustment of agency plans to
55 take public comment into account. Agency plans for implementation shall
56 provide for sufficient testing of the process in the agency prior to

1 implementation in order to ensure the technology is functioning proper-
2 ly, the process is usable and understandable for applicants and agency
3 employees, and reasonable precautions have been put in place to minimize
4 error or the possibility of discouraging applications for services,
5 assistance, or registration.
6   § 5-902. Failure to receive exemplar signature not to prevent regis-
7 tration. If a voter registration exemplar signature is not received from
8 an applicant who submits a voter registration or pre-registration appli-
9 cation pursuant to this title and such signature exemplar is not other-
10 wise available from the statewide voter registration database or a state
11 or local agency, the local board of elections shall, absent another
12 reason to reject the application, proceed to register or pre-register
13 and, as applicable, enroll the applicant. Within ten days of such
14 action, the board of elections shall send a standard form promulgated by
15 the state board of elections to the voter whose record lacks an exemplar
16 signature, requiring such voter to submit a signature for identification
17 purposes. The voter shall submit to the board of elections a voter
18 registration exemplar signature by any one of the following methods: in
19 person, by mail with return postage paid provided by the board of
20 elections, by electronic mail, or by electronic upload to the board of
21 elections through the electronic voter registration transmittal system.
22 If such voter does not provide the required exemplar signature, when the
23 voter appears to vote the voter shall be entitled to vote by affidavit
24 ballot.
25   § 5-904. Presumption of innocent authorized error. 1. Notwithstanding
26 subdivision six of section 5-210 of this article or any other law to the
27 contrary, a person who is ineligible to vote who fails to decline to
28 register or pre-register to vote in accordance with the provisions of
29 this section and did not willfully and knowingly seek to register or
30 pre-register to vote knowing that he or she is not eligible to do so:
31   (a) shall not be guilty of any crime as the result of the applicant's
32 failure to make such declination;
33   (b) shall be deemed to have been registered or pre-registered with
34 official authorization; and
35   (c) such act may not be considered as evidence of a claim to citizen-
36 ship.
37   2. Notwithstanding subdivision six of section 5-210 of this article or
38 any other law to the contrary, a person who is ineligible to vote who
39 fails to decline to register or pre-register to vote in accordance with
40 the provisions of this section, who then either votes or attempts to
41 vote in an election held after the effective date of that person's
42 registration, and who did not willfully and knowingly seek to register
43 or pre-register to vote knowing that he or she is not eligible to do so,
44 and did not subsequently vote or attempt to vote knowing that he or she
45 is not eligible to do so:
46   (a) shall not be guilty of any crime as the result of the applicant's
47 failure to make such declination and subsequent vote or attempt to vote;
48   (b) shall be deemed to have been registered or pre-registered with
49 official authorization; and
50   (c) such act may not be considered as evidence of a claim to citizen-
51 ship.
52   § 5-906. Forms. The state board of elections shall promulgate rules
53 and regulations to implement this title. All agency forms and notices
54 required by this title shall be approved by the state board of
55 elections. All applications and notices for use by a board of elections
56 pursuant to this title shall be promulgated by the state board of

1 **elections, and no addition or alteration to such forms by a board of**
2 **elections shall be made without approval of the state board of**
3 **elections.**
4   § 3. The election law is amended by adding a new section 5-308 to read
5 as follows:
6   **§ 5-308. Enrollment; automatic voter registration. 1. The board of**
7 **elections shall, promptly and not later than twenty-one days after**
8 **receipt of a voter registration or pre-registration application submit-**
9 **ted pursuant to title nine of this article by a voter registering or**
10 **pre-registering for the first time, send any such voter who did not**
11 **enroll in a party a notice and a form to indicate party enrollment, with**
12 **return postage paid by the board of elections. Such notice shall offer**
13 **the voter the opportunity to enroll with a party or to decline to enroll**
14 **with a party and contain the following statement in prominent type "IF**
15 **YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY**
16 **ELECTIONS FOR THAT PARTY." Such form shall provide a clear alternative**
17 **for the applicant to decline to affiliate with any party. If the board**
18 **of elections has not received a response to the party enrollment notice**
19 **and form within forty-five days of the application, the board shall mail**
20 **a second similar notice and form to the voter.**
21   **2. Notwithstanding subdivision two of section 5-304 of this title, if**
22 **a voter who registered to vote for the first time (or pre-registered)**
23 **pursuant to title nine of this article responds to the notice required**
24 **by subdivision one of this section and elects to enroll in a party, such**
25 **enrollment shall take effect immediately. However, any pre-registrant's**
26 **registration shall remain classified as "pending" until he or she**
27 **reaches the age of eligibility.**
28   **3. If a voter appears at a primary election and votes by affidavit**
29 **ballot indicating the intent to enroll in such party, such affidavit**
30 **ballot shall cause the voter to be enrolled immediately in that party if**
31 **the board of elections determines that the voter registered (or pre-re-**
32 **gistered) to vote for the first time pursuant to title nine of this**
33 **article.**
34   **4. If a voter appears at a primary election and votes by affidavit**
35 **ballot indicating the intent to enroll in such party, such affidavit**
36 **ballot shall be cast and counted if the board of elections determines**
37 **that the voter registered (or pre-registered) to vote at least twenty-**
38 **five days before that primary pursuant to title nine of this article and**
39 **such voter is otherwise qualified to vote in such election.**
40   § 4. Paragraph (a) of subdivision 2 of section 9-209 of the election
41 law is amended by adding a new subparagraph (vii) to read as follows:
42   **(vii) If the board of elections finds that the voter registered (or**
43 **pre-registered) to vote for the first time pursuant to title nine of**
44 **article five of this chapter at least twenty-five days before a primary,**
45 **appeared at such primary election, and indicated on the affidavit ballot**
46 **envelope the intent to enroll in such party, the affidavit ballot shall**
47 **be cast and counted if the voter is otherwise qualified to vote in such**
48 **election.**
49   § 5. This act shall take effect January 1, 2023; provided, however,
50 the state board of elections and any participating agency shall be
51 authorized to implement necessary rules and regulations and to take
52 steps required to implement this act immediately.