STATE OF NEW YORK

1278

2019-2020 Regular Sessions

IN SENATE

January 11, 2019

Introduced by Sens. GIANARIS, ADDABBO, BAILEY, BENJAMIN, BROOKS, CARLUCCI, COMRIE, HOYLMAN, KAMINSKY, KAVANAGH, KENNEDY, KRUEGER, MAYER, MONTGOMERY, PARKER, RIVERA, SEPULVEDA, SERRANO, STAVISKY, STEWART-COUSINS -- 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 enacting the "New York automatic voter registration act of 2019"

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

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

§ 2. The election law is amended by adding a new section 5-200 to read as follows:

§ 5-200. Automated 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 to register to vote.

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 to register to vote or to update the voter's registration 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;

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

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(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;

(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 state 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, to the extent it has such 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 or attestation of eligibility;

(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 a source agency does not routinely request information from an individual that would demonstrate proof of eligibility to register to vote including age, citizenship and residency, the agency shall provide a voter registration form on which such individual may either decline to register to vote or consent to register to vote and inform the individual:

(a) that the individual shall be registered to vote unless the individual declines to register to vote or if the individual is not eligible to vote;

(b) of the qualifications to register to vote;

(c) that the individual should not register to vote if the individual does not meet all the qualifications;

(d) of the penalties for submission of a false application;

(e) that voter registration is voluntary and that neither registering nor declining to register to vote will in any way affect the availability of services or benefits; and

(f) that by failing to affirmatively decline to register to vote the individual is attesting that they meet all of the qualifications to register to vote.

6. (a) The board of elections shall:

(i) identify all individuals whose information is transmitted by a source agency pursuant to this section and who are eligible to be, but are not currently, registered to vote in the state;

(ii) promptly send each such individual written notice which shall not identify the source agency that transmitted the information but shall include:

(1) an explanation that voter registration is voluntary, but if the individual does not decline registration, the individual will be registered to vote;

(2) a statement offering the opportunity to decline to register to vote;

(3) a statement offering the individual the opportunity to enroll with a political party or to decline to enroll with a political party;

(4) the voter eligibility requirements and a statement that the individual must decline registration if they do not meet these requirements;

(5) penalties for submission of false information for registration to vote;

(6) a statement that if the individual declines to register, that declination shall remain confidential and shall be used only for voter registration purposes; and

(7) instructions for correcting erroneous information.

(b) The notice required by subparagraph (ii) of paragraph (a) of this subdivision shall include a form that offers the individual the opportunity to elect to decline to register to vote and, in a separate section, the opportunity to enroll with a political party or to decline to enroll with a political party and a postage pre-paid envelope to return the form.

(c) If a person notified under this section does not decline to be registered to vote within twenty-one days after the board of elections sends the notice, the individual shall be registered to vote.

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.

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 twenty; 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-one.

§ 3. Subdivision 3 of section 5-304 of the election law, as amended by chapter 90 of the laws of 1991, is amended to read as follows:

3. A change of enrollment received by the board of elections, showing a dated cancellation mark of the United States Postal Service or contained in an envelope showing such cancellation mark which is dated, not later than the twenty-fifth day before the [~~general election shall be deposited in a sealed enrollment box, which shall not be opened until the first Tuesday following such general election. Such change of enrollment shall be then removed and entered as provided in this article~~] next ensuing primary, general or special election, and received no later than the fifth day before such election or delivered in person to such county board of elections not later than the tenth day before a primary, general or special election, shall be effective for such election. Enrollment changes shall be entered as provided in this article and shall be deemed to take effect on the tenth day after such change of enrollment is received by the board of elections or if the change of enrollment, or the envelope containing it, bears a dated cancellation mark of the United States Postal Service, such change shall be entered and shall be deemed to take effect on the tenth day after the date of such mark, whichever is earlier; except that no change will take effect sooner than the fifth day after the receipt of such change of enrollment by the board of elections.

§ 4. The election law is amended by adding a new section 17-138 to read as follows:

§ 17-138. Discrimination and harassment. No person acting under color of any provision of law may harass or discriminate against or assist others in harassing or discriminating against any person on the basis of

the information supplied by the person for voter registration purposes, a person's declination to register to vote or to supply information for voter registration purposes, or a person's absence from the statewide voter registration list except as required to administer elections or enforce election laws.

§ 5. 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.

§ 6. Subdivision 4 of section 3-212 of the election law is amended by adding two new paragraphs (c) and (d) to read as follows:

(c) Said annual report, as required by paragraph (a) of this subdivision, shall also include:

(1) the number of records that have been received, transmitted, transferred, updated, or corrected pursuant to section 5-200 of this chapter, by source;

(2) the number of records received under section 5-200 of this chapter, by source, that do not relate to persons identified as eligible to vote;

(3) the number of persons who have contacted the board to opt out of voter registration;

(4) the number of voters who submit voter registration forms and/or requests to update or correct voter registration information using the system described in section 5-614 of this chapter; and

(5) the number of voters who correct voter registration information using the election-day procedure described in section 8-302 of this chapter.

(d) Said annual report, as required by paragraph (a) of this subdivision, shall exclude any information that personally identifies any person other than an election official or other government official.

§ 7. Section 17-104 of the election law is amended to read as follows:

§ 17-104. False registration. 1. Any person who:

[~~1.~~] (a) Registers or attempts to register as an elector in more than one election district for the same election, or more than once in the same election district; or,

[~~2.~~] (b) Registers or attempts to register as an elector, knowing that he will not be a qualified voter in the district at the election for which such registration is made; or

[~~3.~~] (c) Registers or attempts to register as an elector under any name but his or her own; or

[~~4.~~] (d) Knowingly gives a false residence within the election district when registering as an elector; or

[~~5.~~] (e) Knowingly permits, aids, assists, abets, procures, commands or advises another to commit any such act, is guilty of a felony.

2. Notwithstanding any other provision of this chapter, no person shall be liable for an error in the statewide voter registration list unless such person knowingly and willfully makes a false statement in order to effectuate or perpetuate voter registration. An error in the statewide voter registration list shall not constitute a fraudulent or false claim to citizenship.

§ 8. Subdivisions 16-a and 17 of section 3-102 of the election law, subdivision 16-a as amended by section 91 of subpart B of part C of chapter 62 of the laws of 2011 is amended, subdivision 17 as renumbered by chapter 23 of the laws of 2005, is renumbered subdivision 21 and four new subdivisions 17, 18, 19 and 20 are added to read as follows:

16-a. provide the department of corrections and community supervision with a sufficient number of voter registration forms to allow the department of corrections and community supervision to comply with the duty to provide such voter registration forms to persons upon the expiration of their maximum sentence of imprisonment. Such voter registration forms shall be addressed to the state board of elections[~~.~~];

17. ensure that, upon receipt and verification of a person's express request to opt out of voter registration, the person's name and registration record will not be added to the county or statewide voter registration lists;

18. ensure that election officials shall not provide the record of any person who has opted out of voter registration, in whole or in part, to any third party for any purpose other than the compilation of a jury list;

19. publish and enforce a privacy and security policy specifying each class of users who shall have authorized access to the statewide voter registration list, preventing unauthorized access to the statewide voter registration list and to any list provided by a source agency or list maintenance source, and setting forth other safeguards to protect the privacy and security of the information on the statewide voter registration list;

20. promulgate rules regarding the notification of voters of transfer of address by electronic mail; and

§ 9. This act shall take effect January 1, 2020. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.