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

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:

Section 1. Short title. This act shall be known and may be cited as the "New York automatic voter registration act of 2020".

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

TITLE IX

AUTOMATIC VOTER REGISTRATION

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

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

5-904. Presumption of innocent authorized error.

§ 5-906. Forms.

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

1. In addition to any other method of voter registration provided for by this chapter, state and local agencies designated in subdivisions thirteen and fourteen of this section shall provide to the state board of elections voter registration qualification information associated with each person who submits an application for services or assistance at such agency, including a renewal, recertification, or reexamination transaction at such agency, and each person who notifies the agency of a change of address or name. For the purposes of the department of motor vehicles, "application for services or assistance at such agency" refers only to an application for a motor vehicle driver's license, a driver's license renewal or an identification card if such card is issued by the department of motor vehicles in its normal course of business. For purposes of the New York city housing authority "application for services or assistance at such agency" refers only to applications that

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

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reach an eligibility interview and reexamination transactions. Such
designated agencies shall ensure agency applications substantially
include all of the elements required by section 5-210 of this article,
including the appropriate attestation, so that persons completing such
applications shall be able to also submit an application to register to
vote through the electronic voter registration transmittal system. For
purposes of this section, "agency" shall mean any state or local agency,
department, division, office, institution or other entity designated in
subdivision thirteen of this section or designated by the governor
pursuant to subdivision fourteen of this section. For purposes of this
section, registration shall also include pre-registration pursuant to
section 5-507 of this article.

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

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

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

5. Notwithstanding any other law to the contrary, no agency designated
under this section shall transmit to the state board of elections any
application for registration for a person that indicates on the inte-
grated personal voter registration application that they do not meet one
of the eligibility requirements.

6. The voter registration related portion of each agency's integrated
application for services or assistance shall:
(a) include a statement of the eligibility requirements for voter
registration and shall require the applicant to attest by his or her
signature that he or she meets those requirements under penalty of
perjury unless such applicant declines such registration;
(b) inform the applicant, in print identical to that used in the
attestation section of the following:
(i) voter eligibility requirements;
(ii) penalties for submission of a false registration application;
(iii) that the office where the applicant applies for registration
shall remain confidential and the voter registration information shall
be used only for voter registration purposes;
(iv) that if the applicant applies to register to vote electronically, such applicant thereby consents to the use of an electronic copy of the individual's manual signature that is in the custody of the department of motor vehicles, the state board of elections, or other agency designated by this section, as the individual's voter registration exemplar signature if the individual voter's exemplar signature is not provided with the voter registration application;

(v) if the applicant declines to register, such applicant's declination shall remain confidential and be used only for voter registration purposes; and

(vi) that applying to register or declining to register to vote will not affect the amount of assistance that the applicant will be provided by this agency;

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

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

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

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

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

8. The agency shall redact or remove from the completed integrated application to be transmitted to the state board of elections any information solely applicable to the agency application.

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

10. A voter shall be able to decline to register to vote using an integrated application by selecting a single check box, or equivalent, which shall include the following statement: "I DECLINE USE OF THIS FORM FOR VOTER REGISTRATION AND PRE-REGISTRATION PURPOSES. DO NOT FORWARD MY INFORMATION TO THE BOARD OF ELECTIONS."

11. The voter shall be able to sign the voter registration application and the agency application by means of a single manual or electronic signature unless the agency requires more than one signature for other agency purposes.
12. No application for voter registration shall be submitted if the
applicant declines registration or fails to sign the integrated applica-
tion, whether on paper or online.

13. Designated agencies for purposes of this section shall include the
department of motor vehicles, the department of health, the office of
temporary and disability assistance, the department of labor, the office
of vocational and educational services for individuals with disabili-
ties, county and city departments of social services, and the New York
city housing authority, as well as any other agency designated by the
governor. Each designated agency shall enter into an agreement with the
state board of elections finalizing the format and content of electronic
transmissions required by this section. The state board of elections
shall prepare and distribute to designated agencies written instructions
as to the implementation of the program and shall be responsible for
establishing training programs for employees of designated agencies
listed in this section. Such instructions and such training shall
ensure usability of the integrated application for low English profi-
ciency voters. Any such designated agency shall take all actions that
are necessary and proper for the implementation of this section, includ-
ing facilitating technological capabilities to allow transmission of
data through an interface with the electronic voter registration trans-
mittal system in a secure manner.

14. Each year, the governor shall conduct a review of each participat-
ing agency under section 5-211 of this article not already designated as
an automatic voter registration agency pursuant to this subdivision in
order to determine whether designation is appropriate. The governor
shall designate each participating agency that collects information or
documents that would provide proof of eligibility to vote unless the
governor determines that there are compelling reasons why automatic
voter registration is not feasible at the agency. If the governor should
determine that there are compelling reasons why automatic voter regis-
tration is not feasible at an agency, the governor shall prepare a
report explaining those reasons to the legislature by the end of the
calendar year in which that determination is made. Any agency designated
by the governor pursuant to this subdivision shall provide automatic
voter registration upon the earlier occurrence of: (a) two years after
designation by the governor, or (b) five days after the date of certif-
ication by the state board of elections that the information technology
infrastructure to substantially implement the provisions of this section
at the agency is functional.

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

16. Each participating agency shall provide an opportunity through
rulemaking for public notice and comment regarding the plans for imple-
mentation in the agency. Such opportunity must be provided sufficiently
in advance of implementation to allow for adjustment of agency plans to
take public comment into account. Agency plans for implementation shall
provide for sufficient testing of the process in the agency prior to
implementation in order to ensure the technology is functioning proper-
ly, the process is usable and understandable for applicants and agency
employees, and reasonable precautions have been put in place to minimize
error or the possibility of discouraging applications for services,
assistance, or registration.

§ 5-902. Failure to receive exemplar signature not to prevent regis-
tration. If a voter registration exemplar signature is not received from
an applicant who submits a voter registration or pre-registration appli-
cation pursuant to this title and such signature exemplar is not other-
wise available from the statewide voter registration database or a state
or local agency, the local board of elections shall, absent another
reason to reject the application, proceed to register or pre-register
and, as applicable, enroll the applicant. Within ten days of such
action, the board of elections shall send a standard form promulgated by
the state board of elections to the voter whose record lacks an exemplar
signature, requiring such voter to submit a signature for identification
purposes. The voter shall submit to the board of elections a voter
registration exemplar signature by any one of the following methods: in
person, by mail with return postage paid provided by the board of
elections, by electronic mail, or by electronic upload to the board of
elections through the electronic voter registration transmittal system.
If such voter does not provide the required exemplar signature, when the
voter appears to vote the voter shall be entitled to vote by affidavit
ballot.

§ 5-904. Presumption of innocent authorized error. 1. Notwithstanding
subdivision six of section 5-210 of this article or any other law to the
contrary, a person who is ineligible to vote who fails to decline to
register or pre-register to vote in accordance with the provisions of
this section and did not willfully and knowingly seek to register or
pre-register to vote knowing that he or she is not eligible to do so:
(a) shall not be guilty of any crime as the result of the applicant's
failure to make such declination;
(b) shall be deemed to have been registered or pre-registered with
official authorization; and
(c) such act may not be considered as evidence of a claim to citizen-
ship.

2. Notwithstanding subdivision six of section 5-210 of this article or
any other law to the contrary, a person who is ineligible to vote who
fails to decline to register or pre-register to vote in accordance with
the provisions of this section, who then either votes or attempts to
vote in an election held after the effective date of that person's
registration, and who did not willfully and knowingly seek to register
or pre-register to vote knowing that he or she is not eligible to do so,
and did not subsequently vote or attempt to vote knowing that he or she
is not eligible to do so:
(a) shall not be guilty of any crime as the result of the applicant's
failure to make such declination and subsequent vote or attempt to vote;
(b) shall be deemed to have been registered or pre-registered with
official authorization; and
(c) such act may not be considered as evidence of a claim to citizen-
ship.

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

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

§ 5-308. Enrollment; automatic voter registration. 1. The board of
elections shall, promptly and not later than twenty-one days after
receipt of a voter registration or pre-registration application submitted pursuant to title nine of this article by a voter registering or pre-registering for the first time, send any such voter who did not enroll in a party a notice and a form to indicate party enrollment, with return postage paid by the board of elections. Such notice shall offer the voter the opportunity to enroll with a party or to decline to enroll with a party and contain the following statement in prominent type "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY ELECTIONS FOR THAT PARTY." Such form shall provide a clear alternative for the applicant to decline to affiliate with any party. If the board of elections has not received a response to the party enrollment notice and form within forty-five days of the application, the board shall mail a second similar notice and form to the voter.

2. Notwithstanding subdivision two of section 5-304 of this title, if a voter who registered to vote for the first time (or pre-registered) pursuant to title nine of this article responds to the notice required by subdivision one of this section and elects to enroll in a party, such enrollment shall take effect immediately. However, any pre-registrant's registration shall remain classified as "pending" until he or she reaches the age of eligibility.

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

4. If a voter appears at a primary election and votes by affidavit ballot indicating the intent to enroll in such party, such affidavit ballot shall be cast and counted if the board of elections determines that the voter registered (or pre-registered) to vote at least twenty-five days before that primary pursuant to title nine of this article and such voter is otherwise qualified to vote in such election.

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

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

§ 5. This act shall take effect January 1, 2023; provided, however, the state board of elections and any participating agency shall be authorized to implement necessary rules and regulations and to take steps required to implement this act immediately.