

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

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

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

(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 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 TO VOTE AND YOU WILL HAVE APPLIED TO REGISTER TO VOTE.";

(d) include a warning statement in prominent type, "IF YOU ARE NOT A CITIZEN OF THE UNITED STATES, DO NOT CHECK THE VOTER REGISTRATION BOX BELOW. NON-CITIZENS WHO REGISTER TO VOTE MAY BE SUBJECT TO CRIMINAL PENALTIES AND SUCH VOTER 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 a 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.

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

7. 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.

8. 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.

9. 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 read "I DECLINE USE OF THIS FORM FOR VOTER REGISTRATION PURPOSES. DO NOT FORWARD MY INFORMATION TO THE BOARD OF ELECTIONS".

10. 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.

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

12. Designated agencies for purposes of this section shall include all agencies designated as voter registration agencies in sections 5-211 and 5-212 of this article, as well as any other agency designated by the state board of elections. Each 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

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.