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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:

### 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 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

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

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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 certifi-  
45 cation 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 properly,  
2 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.