

STATE OF NEW YORK

6457

2019-2020 Regular Sessions

IN SENATE

June 11, 2019

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:

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
17 registration qualification information associated with each person who
18 submits an application for services at such agency, or who notifies the
19 agency of a change of address or name. Such designated agencies shall
20 ensure agency applications substantially include all of the elements
21 required by section 5-210 of this article, including the appropriate
22 attestation, so that persons completing such applications shall be able
23 to also submit an application to register to vote through the electronic
24 voter registration transmittal system. For purposes of this section,

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

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1 "agency" shall mean any state or local agency, department, division,
2 office, institution or other entity designated by the state board of
3 elections pursuant to subdivision twelve of this section.

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

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

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

30 5. The voter registration related portion of each agency's integrated
31 application for services or assistance shall:

32 (a) include a statement of the eligibility requirements for voter
33 registration and shall require the applicant to attest by his or her
34 signature that he or she meets those requirements under penalty of
35 perjury unless such applicant declines such registration;

36 (b) inform the applicant, in print identical to that used in the
37 attestation section of the following:

38 (i) voter eligibility requirements;

39 (ii) penalties for submission of a false registration application;

40 (iii) that the office where the applicant applies for registration
41 shall remain confidential and the voter registration information shall
42 be used only for voter registration purposes;

43 (iv) that if the applicant applies to register to vote electronically,
44 such applicant thereby consents to the use of an electronic copy of the
45 individual's manual signature that is in the custody of the department
46 of motor vehicles, the state board of elections, or other agency desig-
47 nated by this section, as the individual's voter registration exemplar
48 signature if the individual voter's exemplar signature is not provided
49 with the voter registration application; and

50 (v) if the applicant declines to register, such applicant's declina-
51 tion shall remain confidential and be used only for voter registration
52 purposes;

53 (c) include a box for the applicant to check to indicate whether the
54 applicant would like to decline to register to vote along with the
55 statement in prominent type, "IF YOU DO NOT CHECK THIS BOX, AND YOU
56 PROVIDE YOUR SIGNATURE ON THE SPACE BELOW, YOU WILL HAVE ATTESTED TO

1 YOUR ELIGIBILITY TO REGISTER TO VOTE AND YOU WILL HAVE APPLIED TO REGIS-
2 TER TO VOTE.";

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

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

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

16 7. The agency shall redact or remove from the completed integrated
17 application to be transmitted to the state board of elections any infor-
18 mation solely applicable to the agency application.

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

23 9. A voter shall be able to decline to register to vote using an inte-
24 grated application by selecting a single check box, or equivalent, which
25 shall read "I DECLINE USE OF THIS FORM FOR VOTER REGISTRATION PURPOSES.
26 DO NOT FORWARD MY INFORMATION TO THE BOARD OF ELECTIONS".

27 10. The voter shall be able to sign the voter registration application
28 and the agency application by means of a single manual or electronic
29 signature unless the agency requires more than one signature for other
30 agency purposes.

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

34 12. Designated agencies for purposes of this section shall include all
35 agencies designated as voter registration agencies in sections 5-211 and
36 5-212 of this article, as well as any other agency designated by the
37 state board of elections. Each agency shall enter into an agreement
38 with the state board of elections finalizing the format and content of
39 electronic transmissions required by this section. The state board of
40 elections shall prepare and distribute to designated agencies written
41 instructions as to the implementation of the program and shall be
42 responsible for establishing training programs for employees of desig-
43 nated agencies listed in this section. Any such designated agency shall
44 take all actions that are necessary and proper for the implementation of
45 this section, including facilitating technological capabilities to allow
46 transmission of data through an interface with the electronic voter
47 registration transmittal system in a secure manner.

48 13. 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 § 5-902. Failure to receive exemplar signature not to prevent regis-
52 tration. If a voter registration exemplar signature is not provided by
53 an applicant who submits a voter registration application pursuant to
54 this title and such signature exemplar is not otherwise available from
55 the statewide voter registration database or a state or local agency,
56 the local board of elections shall, absent another reason to reject the

1 application, proceed to register and, as applicable, enroll the appli-
2 cant. Within ten days of such action, the board of elections shall send
3 a standard form promulgated by the state board of elections to the voter
4 whose record lacks an exemplar signature, requiring such voter to submit
5 a signature for identification purposes. The voter shall submit to the
6 board of elections a voter registration exemplar signature by any one of
7 the following methods: in person, by mail with return postage paid
8 provided by the board of elections, by electronic mail, or by electronic
9 upload to the board of elections through the electronic voter registra-
10 tion transmittal system. If such voter does not provide the required
11 exemplar signature, when the voter appears to vote the voter shall be
12 entitled to vote by affidavit ballot.

13 § 5-904. Presumption of innocent authorized error. 1. Notwithstanding
14 subdivision six of section 5-210 of this article or any other law to the
15 contrary, a person who is ineligible to vote who fails to decline to
16 register to vote in accordance with the provisions of this section and
17 did not willfully and knowingly seek to register to vote knowing that he
18 or she is not eligible to do so:

19 (a) shall not be guilty of any crime as the result of the applicant's
20 failure to make such declination;

21 (b) shall be deemed to have been registered with official authori-
22 zation; and

23 (c) such act may not be considered as evidence of a claim to citizen-
24 ship.

25 2. Notwithstanding subdivision six of section 5-210 of this article or
26 any other law to the contrary, a person who is ineligible to vote who
27 fails to decline to register to vote in accordance with the provisions
28 of this section, who then either votes or attempts to vote in an
29 election held after the effective date of that person's registration,
30 and who did not willfully and knowingly seek to register to vote knowing
31 that he or she is not eligible to do so, and did not subsequently vote
32 or attempt to vote knowing that he or she is not eligible to do so:

33 (a) shall not be guilty of any crime as the result of the applicant's
34 failure to make such declination and subsequent vote or attempt to vote;

35 (b) shall be deemed to have been registered with official authori-
36 zation; and

37 (c) such act may not be considered as evidence of a claim to citizen-
38 ship.

39 § 5-906. Forms. The state board of elections shall promulgate rules
40 and regulations to implement this title. All agency forms and notices
41 required by this title shall be approved by the state board of
42 elections. All applications and notices for use by a board of elections
43 pursuant to this title shall be promulgated by the state board of
44 elections, and no addition or alternation to such forms by a board of
45 elections shall be made without approval of the state board of
46 elections.

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

49 § 5-308. Enrollment; automatic voter registration. 1. The board of
50 elections shall, promptly and not later than twenty-one days after
51 receipt of a voter registration application submitted pursuant to title
52 nine of this article by a voter registering for the first time, send any
53 such voter who did not enroll in a party a notice and a form to indicate
54 party enrollment, with return postage paid by the board of elections.
55 Such notice shall offer the voter the opportunity to enroll with a party
56 or to decline to enroll with a party and contain a statement in promi-

1 nent type "IF YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTIC-
2 IPATE IN PRIMARY ELECTIONS FOR THAT PARTY." Such form shall provide a
3 clear alternative for the applicant to decline to affiliate with any
4 party. If the board of elections has not received a response to the
5 party enrollment notice and form within forty-five days of the applica-
6 tion, the board shall mail a second similar notice and form to the
7 voter.

8 2. Notwithstanding subdivision two of section 5-304 of this title, if
9 a voter who registered to vote for the first time pursuant to title nine
10 of this article responds to the notice required by subdivision one of
11 this section and elects to enroll in a party, such enrollment shall take
12 effect immediately.

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

18 4. If a voter appears at a primary election and votes by affidavit
19 ballot indicating the intent to enroll in such party, such affidavit
20 ballot shall be cast and counted if the board of elections determines
21 that the voter registered to vote at least twenty-five days before that
22 primary pursuant to title nine of this article and such voter is other-
23 wise qualified to vote in such election.

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

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

32 § 5. This act shall take effect on the earlier occurrence of: (i) two
33 years after it shall have become a law; provided, however, the state
34 board of elections shall be authorized to implement necessary rules and
35 regulations and to take steps required to implement this act immediate-
36 ly; or (ii) five days after the date of certification by the state board
37 of elections that the information technology infrastructure to substan-
38 tially implement this act is functional. Provided, further that the
39 state board of elections shall notify the legislative bill drafting
40 commission upon the occurrence of the enactment of the legislation
41 provided for in this act in order that the commission may maintain an
42 accurate and timely effective data base of the official text of the laws
43 of the state of New York in furtherance of effectuating the provisions
44 of section 44 of the legislative law and section 70-b of the public
45 officers law.