

STATE OF NEW YORK

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2019-2020 Regular Sessions

IN SENATE

June 11, 2019

Introduced by Sens. GIANARIS, BAILEY, CARLUCCI, GOUNARDES, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KRUEGER, LIU, MAY, METZGER, MYRIE, PARKER, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 subdivision four-
16 teen 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. For the purposes of the depart-

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

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1 ment of motor vehicles, "application for services at such agency" refers
2 only to an application for a motor vehicle driver's license, a driver's
3 license renewal or an identification card if such card is issued by the
4 department of motor vehicles in its normal course of business. Such
5 designated agencies shall ensure agency applications substantially
6 include all of the elements required by section 5-210 of this article,
7 including the appropriate attestation, so that persons completing such
8 applications shall be able to also submit an application to register to
9 vote through the electronic voter registration transmittal system. For
10 purposes of this section, "agency" shall mean any state or local agency,
11 department, division, office, institution or other entity designated by
12 the governor pursuant to subdivision fourteen of this section. For
13 purposes of this section, registration shall also include pre-registra-
14 tion pursuant to section 5-507 of this article.

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

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

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

41 5. Notwithstanding any other law to the contrary, no agency designated
42 under this section shall transmit to the state board of elections any
43 application for registration for a person that is, by virtue of data
44 collected by the agency during the same application for services or
45 change of address or name transaction, demonstrably ineligible to regis-
46 ter or pre-register to vote by reason of age or not being a citizen of
47 the United States.

48 6. The voter registration related portion of each agency's integrated
49 application for services or assistance shall:

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

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

56 (i) voter eligibility requirements;

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

2 (iii) that the office where the applicant applies for registration
3 shall remain confidential and the voter registration information shall
4 be used only for voter registration purposes;

5 (iv) that if the applicant applies to register to vote electronically,
6 such applicant thereby consents to the use of an electronic copy of the
7 individual's manual signature that is in the custody of the department
8 of motor vehicles, the state board of elections, or other agency desig-
9 nated by this section, as the individual's voter registration exemplar
10 signature if the individual voter's exemplar signature is not provided
11 with the voter registration application; and

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

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

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

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

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

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

40 8. The agency shall redact or remove from the completed integrated
41 application to be transmitted to the state board of elections any infor-
42 mation solely applicable to the agency application.

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

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

52 11. The voter shall be able to sign the voter registration application
53 and the agency application by means of a single manual or electronic
54 signature unless the agency requires more than one signature for other
55 agency purposes.

12. 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.

13. Designated agencies for purposes of this section shall include the department of motor vehicles and the department of health, 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 proficiency voters. Any such designated agency shall take all actions that are necessary and proper for the implementation of this section, including facilitating technological capabilities to allow transmission of data through an interface with the electronic voter registration transmittal system in a secure manner.

14. Each year, the governor shall conduct a review of each participating 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 registration 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 certification 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 regulations for the creation and administration of an integrated electronic voter registration process as provided for by this section.

§ 5-902. Failure to receive exemplar signature not to prevent registration. If a voter registration exemplar signature is not received from an applicant who submits a voter registration or pre-registration application pursuant to this title and such signature exemplar is not otherwise 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

1 voter appears to vote the voter shall be entitled to vote by affidavit
2 ballot.

3 § 5-904. Presumption of innocent authorized error. 1. Notwithstanding
4 subdivision six of section 5-210 of this article or any other law to the
5 contrary, a person who is ineligible to vote who fails to decline to
6 register or pre-register to vote in accordance with the provisions of
7 this section and did not willfully and knowingly seek to register or
8 pre-register to vote knowing that he or she is not eligible to do so:

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

11 (b) shall be deemed to have been registered or pre-registered with
12 official authorization; and

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

15 2. Notwithstanding subdivision six of section 5-210 of this article or
16 any other law to the contrary, a person who is ineligible to vote who
17 fails to decline to register or pre-register to vote in accordance with
18 the provisions of this section, who then either votes or attempts to
19 vote in an election held after the effective date of that person's
20 registration, and who did not willfully and knowingly seek to register
21 or pre-register to vote knowing that he or she is not eligible to do so,
22 and did not subsequently vote or attempt to vote knowing that he or she
23 is not eligible to do so:

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

26 (b) shall be deemed to have been registered or pre-registered with
27 official authorization; and

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

30 § 5-906. Forms. The state board of elections shall promulgate rules
31 and regulations to implement this title. All agency forms and notices
32 required by this title shall be approved by the state board of
33 elections. All applications and notices for use by a board of elections
34 pursuant to this title shall be promulgated by the state board of
35 elections, and no addition or alternation to such forms by a board of
36 elections shall be made without approval of the state board of
37 elections.

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

40 § 5-308. Enrollment; automatic voter registration. 1. The board of
41 elections shall, promptly and not later than twenty-one days after
42 receipt of a voter registration or pre-registration application submit-
43 ted pursuant to title nine of this article by a voter registering or
44 pre-registering for the first time, send any such voter who did not
45 enroll in a party a notice and a form to indicate party enrollment, with
46 return postage paid by the board of elections. Such notice shall offer
47 the voter the opportunity to enroll with a party or to decline to enroll
48 with a party and contain a statement in prominent type "IF YOU DO NOT
49 CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY ELECTIONS
50 FOR THAT PARTY." Such form shall provide a clear alternative for the
51 applicant to decline to affiliate with any party. If the board of
52 elections has not received a response to the party enrollment notice and
53 form within forty-five days of the application, the board shall mail a
54 second similar notice and form to the voter.

55 2. Notwithstanding subdivision two of section 5-304 of this title, if
56 a voter who registered to vote for the first time (or pre-registered)

1 pursuant to title nine of this article responds to the notice required
2 by subdivision one of this section and elects to enroll in a party, such
3 enrollment shall take effect immediately. However, any pre-registrant's
4 registration shall remain classified as "pending" until he or she
5 reaches the age of eligibility.

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

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

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

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

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