

# STATE OF NEW YORK

8806

## IN SENATE

July 18, 2020

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 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  
19 such agency, including a renewal, recertification, or reexamination  
20 transaction at such agency, and each person who notifies the agency of a  
21 change of address or name. For the purposes of the department of motor  
22 vehicles, "application for services or assistance at such agency" refers  
23 only to an application for a motor vehicle driver's license, a driver's  
24 license renewal or an identification card if such card is issued by the  
25 department of motor vehicles in its normal course of business. For  
26 purposes of the New York city housing authority "application for  
27 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.

LBD05948-26-0

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

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

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

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

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

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

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

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

52 (i) voter eligibility requirements;

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

54 (iii) that the office where the applicant applies for registration  
55 shall remain confidential and the voter registration information shall  
56 be used only for voter registration purposes;

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

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

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

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

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

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

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

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

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

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

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

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

16. Each participating agency shall provide an opportunity through rulemaking for public notice and comment regarding the plans for implementation 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 properly, 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 registration. If a voter registration exemplar signature is not received from

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

18 § 5-904. Presumption of innocent authorized error. 1. Notwithstanding  
19 subdivision six of section 5-210 of this article or any other law to the  
20 contrary, a person who is ineligible to vote who fails to decline to  
21 register or pre-register to vote in accordance with the provisions of  
22 this section and did not willfully and knowingly seek to register or  
23 pre-register to vote knowing that he or she 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;

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

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

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

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

45 § 5-906. Forms. The state board of elections shall promulgate rules  
46 and regulations to implement this title. All agency forms and notices  
47 required by this title shall be approved by the state board of  
48 elections. All applications and notices for use by a board of elections  
49 pursuant to this title shall be promulgated by the state board of  
50 elections, and no addition or alteration to such forms by a board of  
51 elections shall be made without approval of the state board of  
52 elections.

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

55 § 5-308. Enrollment; automatic voter registration. 1. The board of  
56 elections shall, promptly and not later than twenty-one days after



1 receipt of a voter registration or pre-registration application submit-  
2 ted pursuant to title nine of this article by a voter registering or  
3 pre-registering for the first time, send any such voter who did not  
4 enroll in a party a notice and a form to indicate party enrollment, with  
5 return postage paid by the board of elections. Such notice shall offer  
6 the voter the opportunity to enroll with a party or to decline to enroll  
7 with a party and contain the following statement in prominent type "IF  
8 YOU DO NOT CHOOSE A PARTY YOU WILL NOT BE ABLE TO PARTICIPATE IN PRIMARY  
9 ELECTIONS FOR THAT PARTY." Such form shall provide a clear alternative  
10 for the applicant to decline to affiliate with any party. If the board  
11 of elections has not received a response to the party enrollment notice  
12 and form within forty-five days of the application, the board shall mail  
13 a second similar notice and form to the voter.

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

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

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

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

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

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