

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.

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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.

1 12. No application for voter registration shall be submitted if the
2 applicant declines registration or fails to sign the integrated applica-
3 tion, whether on paper or online.

4 13. Designated agencies for purposes of this section shall include the
5 department of motor vehicles, the department of health, the office of
6 temporary and disability assistance, the department of labor, the office
7 of vocational and educational services for individuals with disabili-
8 ties, county and city departments of social services, and the New York
9 city housing authority, as well as any other agency designated by the
10 governor. Each designated agency shall enter into an agreement with the
11 state board of elections finalizing the format and content of electronic
12 transmissions required by this section. The state board of elections
13 shall prepare and distribute to designated agencies written instructions
14 as to the implementation of the program and shall be responsible for
15 establishing training programs for employees of designated agencies
16 listed in this section. Such instructions and such training shall
17 ensure usability of the integrated application for low English profi-
18 ciency voters. Any such designated agency shall take all actions that
19 are necessary and proper for the implementation of this section, includ-
20 ing facilitating technological capabilities to allow transmission of
21 data through an interface with the electronic voter registration trans-
22 mittal system in a secure manner.

23 14. Each year, the governor shall conduct a review of each participat-
24 ing agency under section 5-211 of this article not already designated as
25 an automatic voter registration agency pursuant to this subdivision in
26 order to determine whether designation is appropriate. The governor
27 shall designate each participating agency that collects information or
28 documents that would provide proof of eligibility to vote unless the
29 governor determines that there are compelling reasons why automatic
30 voter registration is not feasible at the agency. If the governor should
31 determine that there are compelling reasons why automatic voter regis-
32 tration is not feasible at an agency, the governor shall prepare a
33 report explaining those reasons to the legislature by the end of the
34 calendar year in which that determination is made. Any agency designated
35 by the governor pursuant to this subdivision shall provide automatic
36 voter registration upon the earlier occurrence of: (a) two years after
37 designation by the governor, or (b) five days after the date of certif-
38 ication by the state board of elections that the information technology
39 infrastructure to substantially implement the provisions of this section
40 at the agency is functional.

41 15. The state board of elections shall promulgate rules and regu-
42 lations for the creation and administration of an integrated electronic
43 voter registration process as provided for by this section.

44 16. Each participating agency shall provide an opportunity through
45 rulemaking for public notice and comment regarding the plans for imple-
46 mentation in the agency. Such opportunity must be provided sufficiently
47 in advance of implementation to allow for adjustment of agency plans to
48 take public comment into account. Agency plans for implementation shall
49 provide for sufficient testing of the process in the agency prior to
50 implementation in order to ensure the technology is functioning proper-
51 ly, the process is usable and understandable for applicants and agency
52 employees, and reasonable precautions have been put in place to minimize
53 error or the possibility of discouraging applications for services,
54 assistance, or registration.

55 § 5-902. Failure to receive exemplar signature not to prevent regis-
56 tration. 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.