STATE OF NEW YORK

8752--A

IN SENATE

March 7, 2024

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to providing for automatic voter registration and preregistration for persons applying for certain department of motor vehicles documentation, and for Medicaid enrollees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1, paragraphs (c), (d) and (e) of subdivision 6 and subdivisions 10 and 13 of section 5-900 of the election law, as amended by chapter 37 of the laws of 2021, are amended to read as follows:

1. In addition to any other method of voter registration provided for by this chapter, state and local agencies designated in subdivisions thirteen and fourteen of this section shall provide to the state board of elections voter registration qualification information associated with each person who submits an application for services or assistance at such agency, including a renewal, recertification, or reexamination transaction at such agency, and each person who submits a change of address or name form. [~~For the purposes of the department of motor vehicles, "application for services or assistance at such agency" refers only to an application for a motor vehicle driver's license, a driver's license renewal or an identification card if such card is issued by the department of motor vehicles in its normal course of business.~~] For purposes of the New York city housing authority "application for services or assistance at such agency" refers only to applications that reach an eligibility interview and reexamination transactions. Such designated agencies shall ensure agency applications substantially include all of the elements required by section 5-210 of this article, including the appropriate attestation, so that persons completing such applications shall be able to also submit an application to register to vote through the electronic voter registration transmittal system. For

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

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purposes of this section, "agency" shall mean any state or local agency, department, division, office, institution or other entity designated in subdivision thirteen of this section or designated by the governor pursuant to subdivision fourteen of this section. For purposes of this section, registration shall also include pre-registration pursuant to section 5-507 of this article.

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

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

(e) include a space for the applicant to indicate the applicant's choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party and the following statement**, or its substantial equivalent,** in prominent type "ONLY ENROLLED MEMBERS OF A POLITICAL PARTY MAY VOTE IN THAT PARTY'S PRIMARIES".

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

13. [~~**Beginning January first, two thousand twenty-three, designated agencies for purposes of this section shall include the department of motor vehicles.**~~] Beginning January first, two thousand twenty-four, designated agencies for the purposes of this section shall [~~**also**~~] include the department of health, the office of temporary and disability assistance, the department of labor, the office of adult career and continuing education services - vocational rehabilitation, county and city departments of social services, and the New York city housing authority, as well as any other agency designated by the governor. **Provided that, any transactions with the department of health or county and city departments of social services involving Medicaid enrollment shall be processed pursuant to section 5-901-a of this title, in place of this section.** Beginning January first, two thousand twenty-five, designated agencies for the purposes of this section shall also include the state university of New York. 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.

§ 2. The election law is amended by adding a new section 5-901 to read as follows:

§ 5-901. Procedures specific to the department of motor vehicles. 1. Beginning June thirtieth, two thousand twenty-seven, the department of motor vehicles shall utilize the automatic voter registration procedures established by this section for each person who submits an application for a motor vehicle driver's license, a driver's license renewal, or an identification card, or any renewal, recertification, or reexamination transaction for such documents, or any change of address or name form for such documents. Prior to June thirtieth, two thousand twenty-seven, the department of motor vehicles shall utilize the procedures required under section 5-900 of this title for such transactions.

2. (a) Except as provided in paragraph (c) of this subdivision, where a person conducts a department of motor vehicles transaction pursuant to subdivision one of this section and such person has provided documentation to the department of motor vehicles conclusively demonstrating United States citizenship and is of sufficient age to register or pre-register to vote, the department of motor vehicles shall promptly transmit electronically to the state board of elections the following information regarding such person:

(i) such person's name;

(ii) such person's date of birth;

(iii) such person's driver's license or state ID number;

(iv) such person's residence address, and mailing address if different from such residence address;

(v) such person's county of residence;

(vi) such person's citizenship status;

(vii) an electronic copy of such person's manual signature that is in the custody of the department of motor vehicles;

(viii) the date of such person's transaction with the department of motor vehicles;

(ix) such person's gender, if available;

(x) such person's telephone number, if available; and

(xi) such person's e-mail address, if available.

(b) The department of motor vehicles and the state board of elections shall jointly determine which documents acceptable for transactions pursuant to subdivision one of this section conclusively demonstrate United States citizenship.

(c) The department of motor vehicles shall not transmit information pursuant to paragraph (a) of this subdivision for any person who is a program participant in the address confidentiality program pursuant to section one hundred eight of the executive law.

(d) Upon receiving information pursuant to paragraph (a) of this subdivision for a person who is not registered to vote in New York state and who is of sufficient age to register or pre-register to vote, unless the state board of elections has evidence that such person is a program participant in the address confidentiality program pursuant to section one hundred eight of the executive law, the state board of elections shall electronically forward such information to the board of elections of the county or the city of the person's residence address for registration or pre-registration consistent with this chapter.

(e) (i) Upon receiving information pursuant to paragraph (d) of this subdivision, a county or city board of elections shall register or pre-

register the person to vote pursuant to section 5-210 of this article effective as of the date of such person's transaction with the department of motor vehicles. The county or city board of elections shall promptly send to such person's mailing address, by non-forwardable mail, a notice that such person has been registered to vote, or pre-registered to vote, if applicable, that contains a postage paid preaddressed return form by which such person may decline to be registered or pre-registered. Such notice shall be combined with the notice required pursuant to subdivision one of section 5-308 of this article and shall also offer such person the opportunity to enroll with a party. Such notice shall also include a statement that, if such person declines to register or pre-register to vote, the fact that such person has declined registration or pre-registration will remain confidential and will be used only for election administration purposes, and a statement that, if such person does not decline registration or pre-registration, the office at which such person was registered or pre-registered will remain confidential and will be used only for election administration purposes. Such notice shall also provide information and procedures for anyone wishing to prevent disclosure of their residence address, including information regarding the address confidentiality program for victims of domestic violence under section 5-508 of this article. The notice required by this subparagraph may be combined with the notice provided to newly registered voters pursuant to subdivision nine of section 5-210 of this article.

(ii) Notwithstanding any other provision of this article, a person of sufficient age to register to vote whose information is transmitted to a county or city board pursuant to subparagraph (i) of this paragraph shall be registered to vote for an election if the date of such person's transaction with the department of motor vehicles pursuant to subdivision one of this section occurs by the twelfth day before such election and such person's information is transmitted to the county or city board by the tenth day before such election. A person whose transaction with the department of motor vehicles occurs within thirty days of an election shall be required to affirm before voting that such person has resided in such person's county, city, or village for at least thirty days before such election. Such affirmation shall be available at the time of voting and at the time of requesting an early mail or absentee ballot. A voter who signs an affirmation pursuant to this subparagraph shall not be challenged or required to vote an affidavit ballot on the grounds that such voter signed such affirmation.

(f) (i) If a person returns the notice provided under subparagraph (i) of paragraph (e) of this subdivision and declines to be registered or pre-registered to vote, such person's registration or pre-registration shall be canceled, and such person shall be deemed to have not registered or pre-registered. However, if such person has voted in an election after the transmission of such person's information but before the notice is returned, the returned form shall be of no effect and such person shall remain registered as of the date of such person's transaction with the department of motor vehicles. Information relating to the return of a notice form declining to be registered or pre-registered shall not be used for any purpose other than election administration.

(ii) Notwithstanding subdivision two of section 5-304 of this article, if a person returns the notice provided under subparagraph (i) of paragraph (e) of this subdivision and elects to enroll in a party, such enrollment shall take effect immediately. However, any pre-registrant's

registration shall remain classified as "pending" until the voter reaches the age of eligibility.

(iii) If a person returns the notice provided under subparagraph (i) of paragraph (e) of this subdivision but does not select any options, the returned notice shall be of no force and effect, and such person shall remain registered to vote, or pre-registered to vote, if applicable.

3. (a) The department of motor vehicles shall not provide an opportunity to register or pre-register to vote or transmit any information to the board of elections for purposes of voter registration for any person who, when conducting a department of motor vehicles transaction pursuant to subdivision one of this section, provides documentation conclusively demonstrating that such person is not a United States citizen. The department of motor vehicles and the state board of elections shall jointly determine which documents are acceptable for a motor vehicle driver's license, a driver's license renewal, or an identification card to conclusively demonstrate that a person is not a United States citizen.

(b) For any person who conducts a department of motor vehicles transaction pursuant to subdivision one of this section whose information is not already subject to transmission to the state board of elections pursuant to paragraph (a) of subdivision two of this section and who does not provide documentation at the time of such person's transaction conclusively demonstrating that such person is not a United States citizen, the department of motor vehicles transaction shall provide an integrated voter registration opportunity as part of such transaction. For purposes of this paragraph, registration shall also include pre-registration pursuant to section 5-507 of this article.

(c) The department shall ensure agency applications pursuant to paragraph (b) of this subdivision include all of the elements required by section 5-210 of this article, including the appropriate attestation, so that persons completing such applications shall be able to also submit an application to register to vote through the electronic voter registration transmittal system.

(d) The integrated voter registration opportunity shall:

(i) include a statement of the eligibility requirements for voter registration and shall require an applicant to attest that such applicant meets such requirements under penalty of perjury;

(ii) inform an applicant, in print identical to that used in the attestation section, of the following:

(A) voter eligibility requirements;

(B) penalties for submission of a false registration application;

(C) that the office where such applicant applies for registration shall remain confidential and the voter registration information shall be used only for voter registration purposes;

(D) that if such applicant applies to register to vote electronically, such applicant thereby consents to the use of an electronic copy of such applicant's manual signature that is in the custody of the department of motor vehicles, as such applicant's voter registration exemplar signature;

(E) if such applicant signs the application and affirmatively selects the voter registration option, such applicant thereby consents to the use of any information required to complete the voter registration application; and

(F) if such applicant declines to register, such applicant's declination shall remain confidential and be used only for voter registration purposes;

(iii) require an applicant who attests to the eligibility requirements for voter registration to either affirmatively select or affirmatively decline voter registration as a necessary condition to complete the application pursuant to subdivision one of this section;

(iv) include the following warning statement, or its substantial equivalent, in prominent type, "IF YOU ARE NOT A CITIZEN OF THE UNITED STATES, DO NOT SELECT THE OPTION TO REGISTER TO VOTE. NON-CITIZENS WHO REGISTER OR PRE-REGISTER TO VOTE MAY BE SUBJECT TO CRIMINAL PENALTIES AND SUCH VOTER REGISTRATION OR PRE-REGISTRATION MAY RESULT IN DEPORTATION OR REMOVAL, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION.";

(v) include a space for an applicant to indicate such applicant's choice of party enrollment, with a clear alternative provided for such applicant to decline to affiliate with any party and the following statement, or its substantial equivalent, in prominent type "ONLY ENROLLED MEMBERS OF A POLITICAL PARTY MAY VOTE IN THAT PARTY'S PRIMARIES."; and

(vi) include a statement that if an applicant is a victim of domestic violence or stalking, such applicant may contact the state board of elections before or after registering or pre-registering to vote in order to receive information regarding the address confidentiality program for victims of domestic violence under section 5-508 of this article.

(e) For each person who completes an application to register to vote pursuant to paragraph (d) of this subdivision, who attests to the eligibility requirements for voter registration, and affirmatively selects voter registration pursuant to subparagraph (iii) of paragraph (d) of this subdivision, the department of motor vehicles shall electronically transmit to the state board of elections through an interface with the electronic voter registration transmittal system established and maintained by the state board of elections such portion of the application that includes voter registration information. If such person is not already registered to vote in New York state, the state board of elections shall electronically forward such application to the applicable board of elections of each county or the city of New York for registration consistent with this chapter. The department shall not transmit to the state board of elections an application for registration for a person who indicates on the integrated personal voter registration application that such person does not meet the eligibility requirements for registration.

(f) An integrated voter registration application submitted to the department of motor vehicles in an electronic format shall be transmitted to the state board of elections through the electronic voter registration transmittal system and shall include all of the voter registration data elements, including electronic signature, as applicable, and record of attestation of the accuracy of the voter registration information and any relevant document images.

(g) An integrated voter registration form submitted to the department of motor vehicles in paper format shall be transmitted to the state board of elections through the electronic voter registration transmittal system by converting the paper form to an image file or a portable document format file which shall thereafter be deemed the original form for voter registration and enrollment purposes. The department shall retain

the complete original paper application for no less than two years. The transmittal of the converted paper application may include or be accompanied by data elements and transmittal information as required by the rules and regulations of the state board of elections.

(h) The department shall redact or remove from the completed integrated application to be transmitted to the state board of elections any information solely applicable to the agency application.

(i) Information from an applicant relevant to both voter registration and the department application shall be entered by the applicant only once upon an electronic application.

(j) Information concerning the citizenship status of individuals, when collected and transmitted pursuant to this subdivision, shall not be retained, used, or shared for any other purpose except as may be required by law.

(k) For each person who attests to the eligibility requirements for voter registration, but who does not affirmatively select voter registration pursuant to subparagraph (iii) of paragraph (d) of this subdivision, the department of motor vehicles shall electronically transmit to the state board of elections through an interface with the electronic voter registration transmittal system established and maintained by the state board of elections such portion of the application that includes voter registration information with a clear designation that such information shall be used only for the purpose of updating existing registration records.

4. (a) If information is received by the state board of elections from the department of motor vehicles pursuant to paragraph (a) of subdivision two or paragraph (e) or (k) of subdivision three of this section for a person who is already registered or pre-registered to vote in New York state, the state board of elections shall determine whether the information provided to the department of motor vehicles indicates a different name, residence address, or mailing address from that on such person's registration record.

(b) If information provided to the department of motor vehicles pursuant to paragraph (a) of subdivision two or paragraph (e) or (k) of subdivision three of this section indicates a different name, residence address, or mailing address for a registered or pre-registered voter from that on such person's registration record, the state board of elections shall electronically transmit the updated name or address for such person to the appropriate board of elections for such person's residence. If such person has changed residence from one county to another, the state board of elections shall electronically transmit such information to both the board of the previous county or city of residence and the new county or city of residence. The board of elections in such person's county or city of residence shall use the information transmitted by the board to update such person's existing voter registration record, transfer the person's registration, if inactive, to active status, and send to such person's address of record the notice required under subdivision five of section 5-208 of this article. The board of elections in any previous county or city of residence shall update such person's voter registration record to reflect that such person has moved to a different county.

(c) If a person returns the notice required under paragraph (b) of this subdivision and indicates that the change to such person's registration record was in error, the appropriate boards of elections, including the board of the previous county or city of residence, shall

promptly correct such person's previously updated information in the statewide voter registration list.

(d) Any application pursuant to subdivision one of this section shall inform the applicant that if such applicant is already registered or pre-registered to vote in New York state, the name, residence address, and mailing address provided on the application shall be used to update such person's registration record and that such person shall receive notice of any update by mail, along with information on how to correct such update, if needed.

5. The state board of elections shall prepare and distribute to the department of motor vehicles written instructions as to the implementation of this section and shall be responsible for establishing training programs for employees of the department of motor vehicles. Such instructions and such training shall ensure usability of the integrated application in subdivision three of this section for low-English proficiency voters. The department of motor vehicles 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.

6. The state board of elections may promulgate rules and regulations for the administration of this section.

7. Nothing in this section shall be construed to require documentary proof of citizenship for voter registration. Nothing in this section shall be construed to authorize or require the department of motor vehicles to request documentation establishing an applicant's citizenship solely for the purposes of voter registration.

8. The state board of elections shall publicly release data reports, as described in this subdivision, on a monthly basis. Such data reports shall not include any personally identifying information, shall be subcategorized by gender and age of the individuals included, and shall include all of the following information:

(a) The number of individuals registered to vote or pre-registered to vote under the procedures in subdivision two of this section.

(b) The number of individuals registered to vote or pre-registered to vote under the procedures in subdivision three of this section.

(c) The number of individuals who declined voter registration or pre-registration under the procedures in subdivision two of this section.

(d) The number of individuals who declined voter registration or pre-registration under the procedures in subdivision three of this section.

(e) The number of individuals whose voter registration or pre-registration was updated pursuant to the procedures in subdivision four of this section.

§ 3. The election law is amended by adding a new section 5-901-a to read as follows:

§ 5-901-a. Procedures specific to Medicaid enrollment. 1. Subject to any modifications necessary to comply with applicable federal laws and regulations including such modifications under subdivision two of this section, beginning June thirtieth, two thousand twenty-seven, the department of health and county and city departments of social services shall automatically and electronically transmit the following information to the state board of elections for purposes of voter registration and pre-registration for each person who applies for or re-enrolls in Medicaid, who is of sufficient age to register or pre-register to vote, and who is externally verified as a United States citizen as part of an application for Medicaid:

(a) such person's name;
(b) such person's date of birth;
(c) the last four digits of such person's social security number;
(d) such person's residence address, and mailing address if different from the residence address;
(e) such person's county of residence;
(f) such person's citizenship status;
(g) an electronic copy of such person's manual signature, if available;
(h) the date of such person's application or re-enrollment transaction;
(i) such person's gender, if available;
(j) such person's telephone number, if available; and
(k) such person's e-mail address, if available.

2. If necessary to comply with federal law, before transmitting a person's information to the state board of elections for purposes of voter registration pursuant to subdivision one of this section, the department of health and county and city departments of social services or their designees shall, within fifteen days of such person's application or re-enrollment transaction, notify by mail such person whose data is subject to transmission pursuant to subdivision one of this section and provide such person an opportunity to decline transmission. Such notice shall be sent to such person's mailing address by non-forwardable mail, notify such person that such person's information will be shared with election officials for purposes of keeping voter registration records complete and accurate, and contain a postage paid preaddressed return form by which such person may decline transmission of such person's data to the state board of elections. If such person returns such notice within seventeen days of mailing and declines transmission of such person's information, such person's information shall not be transmitted to the state board of elections for purposes of voter registration. If such person does not return the notice provided under this subdivision and declines transmission of such person's information within seventeen days of mailing, such person's information shall be transmitted to the state board of elections within three days for purposes of voter registration.

3. In processing information received the department of health and county and city departments of social services pursuant to subdivision one of this section, the state board of elections and boards of elections for each county or the city of New York shall comply with the requirements established in subdivisions two and four of section 5-901 of this title. Provided that, a person of sufficient age to register to vote whose information is transmitted to a county or city board pursuant to this section shall be registered to vote for an election if the information is transmitted to the county or city board by the tenth day before such election.

4. Prior to June thirtieth, two thousand twenty-seven, the department of health and county and city departments of social services shall utilize the procedures required under section 5-900 of this title for Medicaid enrollment transactions.

§ 4. Section 5-902 of the election law, as amended by chapter 37 of the laws of 2021, is amended to read as follows:

§ 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 or is otherwise registered or pre-registered to vote 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 voter appears to vote the voter shall be entitled to vote by affidavit ballot.

§ 5. The opening paragraphs of subdivisions 1 and 2 of section 5-904 of the election law, as amended by chapter 37 of the laws of 2021, are amended to read as follows:

Notwithstanding subdivision six of section 5-210 of this article or any other law to the contrary, a person who is ineligible to vote who fails to decline to register or pre-register to vote in accordance with the provisions of this [~~section~~] **title or who is otherwise registered or pre-registered to vote in accordance with the provisions of this title,** and **who** did not willfully and knowingly seek to register or pre-register to vote knowing that the person is not eligible to do so:

Notwithstanding subdivision six of section 5-210 of this article or any other law to the contrary, a person who is ineligible to vote who fails to decline to register or pre-register to vote in accordance with the provisions of this [~~section~~] **title or who is otherwise registered or pre-registered to vote in accordance with the provisions of this title, and** who then either votes or attempts to vote in an election held after the effective date of that person's registration, and who did not willfully and knowingly seek to register or pre-register to vote knowing that the person is not eligible to do so, and did not subsequently vote or attempt to vote knowing that the person is not eligible to do so:

§ 6. Subdivisions 1 and 2 of section 5-308 of the election law, as amended by chapter 37 of the laws of 2021, are amended to read as follows:

1. The board of elections shall, promptly and not later than twenty-one days after receipt of a voter registration or pre-registration application submitted pursuant to title nine of this article by a voter registering or pre-registering for the first time, send any such voter who did not enroll in a party a notice and a form to indicate party enrollment. Such notice shall offer the voter the opportunity to enroll with a party or to decline to enroll with a party and contain the following statement in prominent type "ONLY ENROLLED MEMBERS OF A POLITICAL PARTY MAY VOTE IN THAT PARTY'S PRIMARIES." Such form shall provide a clear alternative for the applicant to decline to affiliate with any party. **If the board of elections has not received a response to the party enrollment notice and form sent pursuant to this subdivision, or to a notice sent pursuant to subparagraph (i) of paragraph (e) of subdivision two of section 5-901 of this article within forty-five days of a person's registration, the board shall mail a second party enrollment notice and form to such person.**

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

pursuant to title nine of this article responds to **either of** the [~~**notice**~~] **notices** required by subdivision one of this section and elects to enroll in a party, such enrollment shall take effect immediately. However, any pre-registrant's registration shall remain classified as "pending" until the voter reaches the age of eligibility.

§ 7. This act shall take effect June 30, 2027.