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Legislative Document

No. 121

H.P. 89

House of Representatives, January 17, 2017

An Act To Require Photographic Identification to Vote

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FARRIN of Norridgewock.

Cosponsored by Representatives: CRAIG of Brewer, WARD of Dedham, Senator COLLINS of York and Representatives: GRIGNON of Athens, HARVELL of Farmington, MASON of Lisbon, ORDWAY of Standish, PICKETT of Dixfield, STEARNS of Guilford, STETKIS of Canaan, Senator: BRAKEY of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 21-A MRSA §671, sub-§1**, as amended by PL 2005, c. 453, §55, is
3 further amended to read:

4 **1. Name announced; proof of identity.** A voter who wishes to vote must state the
5 voter's name and present proof of identity in the form of a photographic identification
6 document and, upon request, state the voter's residence address to an election clerk, who
7 shall announce the name in a loud, clear voice. Photographic identification required by
8 this subsection must be an official identification document or card issued by a state, the
9 Federal Government or a college or university located in the State, or an electronic
10 benefits transfer card under Title 22, chapter 1, subchapter 1-A that displays an
11 identifying photograph, and may not be expired. An election worker may use the
12 photographic identification required by this subsection solely for the purpose of verifying
13 the identity of the person who wishes to vote. If a person who wishes to vote does not
14 present photographic identification, that person must be permitted to cast a provisional
15 ballot as provided by section 671-A. Before November 9, 2018, the identity of a person
16 who does not present photographic proof of identity but is known to an election worker,
17 as defined in subsection 1-A, at the voting place may be verified as provided in
18 subsection 1-A.

19 **Sec. 2. 21-A MRSA §671, sub-§1-A** is enacted to read:

20 **1-A. Voter known to election worker; verification of identity.** A voter who does
21 not provide photographic identification on election day as required by subsection 1 and is
22 known to an election worker at the voting place may be issued a ballot after completion
23 and signing of an affidavit by the election worker. The affidavit must be in a form
24 prescribed by the Secretary of State and must be written to indicate that the election
25 worker can personally attest to the identity of the voter. The election worker may issue
26 the voter a ballot after the election worker who can attest to the identity of the voter has
27 signed the affidavit. For the purposes of this subsection, "election worker" includes a
28 municipal clerk, registrar and election official. This subsection is repealed November 9,
29 2018.

30 **Sec. 3. 21-A MRSA §671-A** is enacted to read:

31 **§671-A. Provisional voting**

32 A person who has not provided photographic identification as required by section
33 671, subsection 1 and has not had the person's identity verified by affidavit as provided in
34 section 671, subsection 1-A must be permitted to cast a provisional ballot as follows.

35 **1. Provisional ballot affidavit.** In order to cast a provisional ballot under this
36 section, a person must complete and sign a provisional ballot affidavit, swearing to or
37 affirming that that person is the person that person claims to be on the incoming voting
38 list. The provisional ballot affidavit must be on a form designed by the Secretary of State
39 and must include, at a minimum, the person's name, address, party affiliation, if any, and
40 reason that the person was not able to provide photographic proof of identity.

1 **2. Provisional ballot and provisional ballot envelope issued.** As soon as the
2 provisional ballot affidavit form under subsection 1 has been completed, the election
3 clerk in charge of ballots shall give a provisional ballot and a provisional ballot envelope
4 to the warden. The warden shall write a provisional ballot number on the affidavit form
5 and the provisional ballot envelope and give the ballot and envelope to the voter. The
6 warden also shall give the voter a notice about provisional voting, on a form designed by
7 the Secretary of State, that includes the provisional ballot number assigned to the voter's
8 ballot. The form must clearly state that the person who wishes to vote has 5 business
9 days to provide the municipal clerk, deputy clerk, warden or election clerk photographic
10 proof of identity as prescribed in section 671, subsection 1 in order for the provisional
11 ballot to be counted.

12 **3. Proceed to vote.** After a voter marks the provisional ballot under subsection 2,
13 the voter shall seal it in the provisional ballot envelope and return it to the warden.

14 **4. Provisional ballots segregated and logged.** The warden shall place a provisional
15 ballot envelope containing a provisional ballot completed under this section in a
16 tamper-proof container until the identity of the person marking the ballot can be verified
17 by photographic identification as required by section 671, subsection 1. The warden also
18 shall complete a provisional ballot log, on a form provided by the Secretary of State, that
19 indicates for each provisional ballot the name of the voter, the provisional ballot number
20 and a notation of whether the provisional ballot was resolved and cast. The sealed
21 tamper-proof containers of provisional ballots that are not resolved must be returned to
22 the municipal clerk after the polls are closed, along with all provisional ballot affidavits
23 and the provisional ballot log form.

24 **5. Resolution and counting of provisional ballots.** When a provisional ballot is
25 cast under this section, the municipal clerk or registrar shall proceed as follows.

26 **A.** If the identity of a person casting a provisional ballot under this section is verified
27 upon presentation of acceptable photographic identification by the close of the polls
28 on election day, the clerk or registrar shall designate on the provisional ballot log
29 under subsection 4 that the provisional ballot was accepted. The warden shall remove
30 the provisional ballot from the sealed provisional ballot envelope and place it into the
31 ballot box or tabulator to be counted with the other ballots after the polls close. The
32 election clerk in charge of the incoming voting list shall annotate the incoming voting
33 list to indicate that the voter voted.

34 **B.** If the identity of a person casting a provisional ballot under this section is verified
35 upon presentation of acceptable photographic identification after the close of the polls
36 on election day, but not later than the 5th business day after the election, the clerk or
37 registrar shall designate on the provisional ballot log under subsection 4 that the
38 provisional ballot was accepted. The clerk or registrar, in the presence of one or more
39 witnesses, shall remove the provisional ballot from the sealed provisional ballot
40 envelope and place it into a ballot box in a manner that preserves the secrecy of the
41 vote. After all accepted provisional ballots have been placed into the ballot box, the
42 clerk or registrar shall remove and count the provisional ballots in the same manner
43 as regular ballots. After the incoming voting list is unsealed following the election,

1 the clerk or registrar shall annotate the list to add the names and addresses of the
2 voters under this subsection, along with an indication that the voters voted.

3 C. If a person casting a provisional ballot under this section has not presented
4 photographic identification acceptable to verify the person's identity within 5
5 business days after the election, the clerk or registrar shall write "rejected" on the
6 provisional ballot envelope and return the unopened envelope to the tamper-proof
7 container. The clerk or registrar shall update the provisional ballot log under
8 subsection 4 to indicate the ballot was rejected.

9 **6. Report to Secretary of State.** No later than 5 business days after an election, the
10 clerk shall report the status of all provisional ballots of the municipality under this section
11 to the Secretary of State by providing a copy of the provisional ballot log under
12 subsection 4. In addition to annotating the provisional ballot log to indicate whether
13 provisional ballots were accepted or rejected, the clerk shall update the municipality's
14 return of votes cast to include the votes cast by all provisional voters who presented
15 acceptable photographic identification.

16 **7. Secretary of State to make status available.** Within 20 days after an election,
17 the Secretary of State shall make available on the Secretary of State's publicly accessible
18 website the total number of provisional ballots under this section for that election,
19 including the number of ballots that were counted and the number of ballots that were not
20 counted. For a ballot that was not counted, the reason the ballot was not counted must be
21 included.

22 **Sec. 4. 29-A MRSA §1410, sub-§11** is enacted to read:

23 **11. Identification cards for the purpose of voting.** A person who submits an
24 application for a nondriver identification card is not required to pay the fee required by
25 subsection 2 if the person attests in the application that:

26 A. The person does not have photographic identification acceptable for the
27 verification of the person's identity for the purpose of voting as required by Title
28 21-A, section 671, subsection 1; and

29 B. The person is applying for a nondriver identification card solely for the purpose of
30 voting.

31 SUMMARY

32 This bill requires that a voter provide proof of identity with photographic
33 identification for the purpose of voting. The bill specifies the types of photographic
34 identification that may be used to verify the identity of a voter. It provides that a person
35 who does not present photographic identification may cast a provisional ballot and
36 establishes the process for provisional voting. Under this process, if the person can verify
37 the person's identity to the municipal clerk, deputy clerk or warden or an election clerk
38 within 5 business days of the election by presenting acceptable photographic
39 identification, the ballot will be cast as a regular ballot. Through the general election of
40 2018, a person who does not present acceptable photographic identification but is known
41 to a municipal clerk, registrar or election official at the voting place may cast a regular

1 ballot upon submission of an affidavit by the municipal clerk, registrar or election official
2 attesting to the person's identity. Finally, the bill requires the Secretary of State to
3 provide, at no fee, nondriver identification cards to eligible persons who do not have
4 another form of acceptable photographic identification to verify identity for the purpose
5 of voting.