An Act To Create an Automatic Voter Registration System

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

Presented by Speaker GIDEON of Freeport.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §122-A, as enacted by PL 2005, c. 364, §4, is amended to read:

§122-A. Alternative registration procedure for participants in Address Confidentiality Program

Notwithstanding sections 122 and 152 and subchapter 9, a person who is certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B may register to vote using the designated address and voter code assigned to that person pursuant to rules adopted to implement the program. To register to vote, a voter must present the registrar with that voter's authorization card assigned to the voter pursuant to rules adopted by the Secretary of State showing that voter's name, voter code, designated address and certification expiration date. The registrar may contact the Address Confidentiality Program administrator in the Secretary of State's office to determine the voter's eligibility to register in the municipality and to verify the electoral district in which the voter is voting for purposes of issuing an absentee ballot to the voter pursuant to section 753-C. All registration records and pending voter registration records, as defined in section 231, subsection 1, paragraph B, for such voters must be designated as confidential and kept sealed in the registrar's office. The name of any voter certified as a program participant in the Address Confidentiality Program may not be placed on any voter list that is available for public inspection or copying.

Sec. 2. 21-A MRSA §129, first ¶, as amended by PL 2011, c. 399, §11, is further amended to read:

When Notwithstanding subchapter 9, when a voter's name is changed by marriage or other process of law, or when the voter moves within a municipality, the following provisions apply.

Sec. 3. 21-A MRSA §152, sub-§1, as amended by PL 2015, c. 447, §§4 and 5, is further amended to read:

1. Application. In addition to the procedure procedures provided by section 122 and subchapter 9, a person may register to vote or enroll in a political party, or both, by completing an application that is designed by the Secretary of State. The application must include, but is not limited to:

A. The legal name of the voter, in one of the following combinations:
   (1) First name and last name;
   (2) First initial, middle name and last name; or
   (3) First name, middle name or middle initial and last name;
B. Residence address, including street, street number, apartment number, town and zip code;
C. Mailing address;
D. Date of birth;
F. Most recent prior residence where registered to vote, including the municipality, county and state, and the name under which previously registered, if changed;
H. Notification that failure to complete the entire application may prevent registration;
J. Date of application;
K. Signature of applicant collected in a way that ensures the quality and integrity of the signature;
L. Choice of political party if the applicant desires to enroll in a political party or an indication that the applicant chose not to enroll in a party;
M. A place for the person's current, valid Maine driver's license number, if applicable; or, if the applicant has no driver's license number, the last 4 digits of the person's social security number, if applicable; or, if the applicant has neither number, a place to put "none" or "not applicable"; and
N. A place for the applicant to respond to the questions concerning the voter's qualifications as required by the federal Help America Vote Act of 2002, Public Law 107-252.

Sec. 4. 21-A MRSA §155, first ¶ , as amended by PL 2011, c. 342, §8, is further amended to read:
The registrar shall conditionally accept the registration and enrollment of any person who is 16 years of age and who is otherwise qualified to be a voter. The conditional registration automatically becomes effective on the person's 18th birthday and the registrant then is eligible to vote.

Sec. 5. 21-A MRSA §195, as amended by PL 2009, c. 564, §6, is repealed and the following enacted in its place:

§195. Report

The Secretary of State shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over voter registration matters on the administration of the central voter registration system and the automatic voter registration system established pursuant to subchapter 9.

1. Automatic registration efforts. Beginning January 15, 2022, the report required under this section must include the following information regarding the actions taken pursuant to subchapter 9:

A. The number of pending voter registration records that have been transferred by source agencies;
B. The number of voters added to the central voter registration system because of pending voter registration records transferred by source agencies;
C. The number of voters in the central voter registration system whose information was updated because of pending voter registration records transferred by source agencies;

D. The number of pending voter registration records transferred, by source agency, that do not relate to individuals affirmatively identified as eligible to vote;

E. The number of individuals who chose to not register to vote; and

F. The number of voters who submitted requests to update or correct registration information through the system established in subchapter 9, by type of information updated.

As used in this subsection, "pending voter registration record" and "source agency" have the same meanings as in subchapter 9.

2. Public access. The report required under this section may address issues of public access to the information from the central voter registration system.

3. Legislation. The report required under this section may include suggested legislation necessary to administer the central voter registration system and the automatic voter registration system implemented pursuant to subchapter 9. The joint standing committee of the Legislature having jurisdiction over voter registration matters may report out legislation regarding the central voter registration system and the automatic voter registration system to the Legislature.

Sec. 6. 21-A MRSA c. 3, sub-c. 9 is enacted to read:

SUBCHAPTER 9

AUTOMATIC VOTER REGISTRATION

§231. Registration of voters by source agencies

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Bureau" means the Department of the Secretary of State, Bureau of Motor Vehicles.

B. "Pending voter registration record" means the electronic record created by the bureau that contains the personal identification information, including name, age, citizenship and legal residence, and proof of that information of a person who is in the process of being considered for voter registration.

C. "Proof of voter eligibility" means reliable evidence of a person's eligibility to vote and must include proof of age, citizenship and residence.

D. "Source agency" means a state agency or department or other entity designated as a source agency pursuant to subsection 3 that, as part of the normal course of business of that entity, collects documents that contain personal identification information that provides proof of voter eligibility.
2. Registration referral by source agency. In addition to the procedures provided in sections 122 and 152, an individual may be referred to be registered to vote by a source agency pursuant to this section.

3. Designation of bureau as source agency; other source agencies. The bureau is designated as a source agency. A source agency other than the bureau may be designated or created pursuant to this subsection.

A. The Secretary of State may designate a state agency or department as a source agency if the Secretary of State verifies that the agency or department, as part of the normal course of business of that agency or department, collects documents that provide proof of voter eligibility. The Secretary of State may designate as source agencies other entities designated by Section 7 of the National Voter Registration Act of 1993, 52 United States Code, Section 20506, including, but not limited to, public or private universities or colleges, municipal clerk offices or entities that provide services to persons with disabilities, as long as those entities, as part of the entities' normal course of business, collect documents that provide proof of voter eligibility.

B. An entity that on January 1, 2022 is designated by Section 7 of the National Voter Registration Act of 1993 to provide voter registration services is designated as a source agency if the entity, as part of its normal course of business, collects documents that provide proof of voter eligibility.

C. The Governor may designate by executive order a state agency as a source agency if that agency, as part of its normal course of business, collects documents that provide proof of voter eligibility.

An agency designated as a source agency pursuant to this subsection shall follow the same procedures for automatic voter registration as followed by the bureau and is subject to the requirements of this section, including preimplementation audit and risk assessment and ongoing audits and accuracy checks.

4. Transmission of proof of voter eligibility data; opportunity to opt out. A source agency that, through receipt of an application for assistance or service, including licensing or certification or the renewal of the assistance or service, collects proof of voter eligibility data shall transmit that data to the bureau. Any document or application used by a source agency to collect proof of voter eligibility data must contain notice that the information provided by the applicant could be used to register the applicant to vote, unless the applicant declines, and that some of the applicant's information would be sent to a central voter database where it would be accessible to entities other than the State or the source agency.

5. Registration of individual. If information transferred pursuant to this section and section 232 indicates that an individual is not included in the central voter registration system and the available age, citizenship, residency and other relevant information prove that the individual meets the qualifications to vote in the State and is not otherwise ineligible to vote or that the individual meets the qualifications for advance registration pursuant to section 155, the Secretary of State shall refer the individual to the appropriate election official and that election official shall register that individual as a voter and add
that individual to the central voter registration system unless the individual declines to be registered to vote pursuant to section 232, subsection 5, paragraph A.

6. Update of address. If the information transferred pursuant to this section and section 232 indicates that an individual is already registered to vote in the central voter registration system and the information proves a more recent change to the individual's name or address, the Secretary of State and the election official shall ensure that the individual's records in the central voter registration system are updated accordingly.

§232. Collection, maintenance and use of data

The collection, maintenance and use of data for voter registration under this subchapter are governed by this section.

1. Application; creation of pending voter registration record. If an individual applies for a driver's license or nondriver identification card from the bureau, the bureau shall scan the documentation provided by the individual and create a pending voter registration record for that individual, which must be stored electronically in the bureau's database. The pending voter registration record and the accompanying scanned documentation must be in a searchable, auditable format.

2. Proof of citizenship. If an individual in the course of business with the bureau provides a document that proves the individual is a United States citizen, the pending voter registration record of that individual in the bureau's database must indicate that the individual has fulfilled the citizenship eligibility requirement for the purpose of registering to vote.

3. Audit of data. The Secretary of State shall audit the central voter registration system for quality of data prior to implementation of the voter registration system pursuant to this subchapter and periodically thereafter conduct regular audits and random checks to ensure accuracy and reliability of the data.

4. Sharing of certain information prohibited; penalty. The information retained by the bureau regarding citizenship status or country of origin may not be shared with any federal, state or local government agency except as allowed by this subchapter. Violation of this subsection is a Class E crime.

5. Electronic transmission of voter registration data and notice. If an individual's pending voter registration record establishes voter eligibility, the bureau shall transmit electronically the individual's pending voter registration record to election officials in a format that may be reviewed by election officials and converted and uploaded into the central voter registration system. The bureau also shall transmit for review by election officials any changes to the address or name of an individual in the central voter registration system to ensure that the voting lists are kept current.

An election official shall provide information to the individual stating that, if the individual is eligible and not registered to vote, the information provided by the individual will be used to register the individual to vote, making some of that individual's information accessible to entities other than the State or the election official. The election official shall provide a process by which the individual may:
A. Decline being registered as a voter; and

B. Adopt a political party affiliation.

Any communication must comply with the language requirements of Section 203 of the federal Voting Rights Act of 1965, 52 United States Code, Section 10503.

If an individual identified under this subsection as unregistered but eligible to vote does not decline to be registered as a voter within 21 calendar days after the election official issues the notification, the individual's pending voter registration record submitted under this subsection must be considered a completed registration and the individual must be registered to vote and entered into the central voting system.

§233. Voluntary exclusion from voter list

1. Designation of individuals who request to opt out. The Secretary of State shall ensure that, upon receipt and verification of an individual's request to opt out of voter registration, the individual's name and pending voter registration record are designated as unregistered, unless the voter subsequently consents to registration. This subsection does not preclude an individual who has previously declined voter registration from subsequently registering to vote.

2. Provision of records for permitted use only. The Secretary of State shall ensure that election officials do not provide the pending voter registration record of an individual who has opted out of voter registration to a 3rd party for any purpose other than the compilation of a jury list.

3. Opportunity to opt out prior to voter registration transaction. The Secretary of State shall ensure that, prior to the creation of a pending voter registration record by a source agency, an individual is given the opportunity to opt out of any voter registration transaction. If an individual opts out of voter registration, information about that individual may not be transferred out of the source agency that obtained the information.

§234. Privacy and security standards

The Secretary of State periodically shall review privacy and security measures applied to the central voter registration system and the voter registration system established in the subchapter, including pending voter registration records and, as provided in this section, implement standards and procedures to further safeguard the confidentiality, integrity and security of the information collected, maintained, received, transmitted or used pursuant to this subchapter, referred to in this section as "the data."

1. Security. All source agencies, election officials and the Secretary of State shall work individually and jointly to:

A. Ensure the confidentiality, integrity and security of the data;

B. Identify and protect against any threats to the confidentiality, integrity and security of the data, including impermissible uses and disclosures;

C. Train all persons who handle or have access to the data regarding implementation of the security protocols established;
D. Conduct regular audits, either through a neutral 3rd party or the State Auditor, and risk management assessments and pursue measures that are indicated as necessary;

E. Provide the highest level of physical security to facilities, computers and other sensitive equipment on which the data is stored;

F. Employ available software to detect anomalies and irregularities;

G. Implement measures to ensure against unauthorized access or changes in data through the process of transmitting data from one agency to another; and

H. Develop procedures to respond immediately to a breach of the security of the data and to appropriately inform the public and other necessary parties of the breach and consequences of that breach.

2. Privacy. The Secretary of State shall develop, publish and enforce a privacy policy with respect to the central voter registration system, the voter registration system established in this subchapter and the data that:

A. Specifies each class of internal users that have authorized access to the central voter registration system, specifying for each class the permissions and levels of access to be granted, and setting forth other safeguards to protect the privacy of the information in the central voter registration system;

B. Prohibits public disclosure of any information not necessary for voter registration;

C. Protects against public disclosure of social security numbers, in whole or in part, driver's license numbers, nondriver identification card numbers and signatures;

D. Prohibits public disclosure of an individual's decision not to register to vote;

E. Prohibits agencies from transmitting to election officials information other than that required for voter registration or specified information relevant to the administration of elections, such as language preference and demographic information; and

F. Prohibits the disclosure of information relating to persons in categories designated as confidential by federal or state law, including victims of domestic violence or stalking, prosecutors and law enforcement personnel and participants in a witness protection program.

3. Records retention. The Secretary of State shall establish standards and procedures to maintain all election records required for purposes of this subchapter. The pending voter registration record of an individual who has been identified as ineligible to vote within the State or whose name has been removed from the central voter registration system due to opting out or due to ineligibility must be maintained and kept available until the date of the 2nd general election that occurs after the date that the individual opted out or was identified as ineligible, after which it must be deleted.
§235. Protection against liability of individuals on basis of information transferred; false information

1. No individual liability for error by State. If an individual who is ineligible to vote becomes a registered voter pursuant to this subchapter, that individual's registration is deemed to be the fault of the State and not attributable to or the fault of the individual.

2. Providing false information. Notwithstanding subsection 1, an individual who knowingly and willfully provides false information under this subchapter is subject to prosecution pursuant to Title 17-A, section 452.

§236. Protections against misuse of information

1. Restriction on use of registration records. A person may not use the central voter registration system or pending voter registration records for any purpose other than voter registration, election administration, the enforcement of laws against election crimes or as allowed under section 196-A.

2. Restriction on use of information. Information relating to an individual's absence from the central voter registration system or an individual's declining to supply information for voter registration purposes at a source agency is not a public record as defined in Title 1, section 402 and may not be disclosed to the public or used for any purpose other than voter registration, election administration or the enforcement of laws against election crimes.

§237. Nondiscrimination

A person acting under color of law may not discriminate against an individual on the basis of the individual's absence from the central voter registration system, the information supplied by the individual for voter registration purposes at a source agency or the individual's declining to supply such information, except as required to administer elections or enforce the laws against election crimes.

§238. Rules

The Secretary of State may adopt rules to implement this subchapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

§239. Rule of construction

1. No change to authority to maintain voting lists. This subchapter may not be construed to interfere with any election official's authority or obligation, under state or federal law, to:

   A. Determine whether an individual is qualified to be a voter; or
   B. Conduct regular, nondiscriminatory voting list maintenance designed to ensure that persons who are ineligible to vote are not reflected as voters in the central voter registration system.
2. **Right to opt out.** This subchapter may not be construed to interfere with the right of an individual to decline for any reason to be registered to vote.

Sec. 7. Effective date; rules; report. Those sections of this Act that amend the Maine Revised Statutes, Title 21-A, section 122-A, section 129, first paragraph and section 152, subsection 1 and that enact Title 21-A, section 195 and chapter 3, subchapter 9 take effect January 1, 2022, except that the Secretary of State shall adopt major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A to implement by January 1, 2022 the automatic voter registration system enacted in Title 21-A, chapter 3, subchapter 9 and present those rules for approval to the Second Regular Session of the 129th Legislature by January 15, 2020; at the same time, the Secretary of State may present suggested necessary legislation for the proper implementation of the automatic voter registration system. The Joint Standing Committee on Veterans and Legal Affairs may report out legislation to the Second Regular Session of the 129th Legislature based on the recommendations of the Secretary of State.

**SUMMARY**

This bill establishes, beginning January 1, 2022, a method of automatically registering eligible individuals to vote. The Department of the Secretary of State, Bureau of Motor Vehicles, when receiving any documentation from an individual doing business with the bureau, including applying for or renewing a driver's license or nondriver identification card, is required to scan and electronically store the documentation provided by the individual. If the documentation provides proof of eligibility to vote, including citizenship, age and residency, that individual is added to the central voter registration system and relevant information is transmitted to election officials unless the individual, at the time of the collection of the documentation, chooses not to be registered to vote, which the Secretary of State is required to ensure that an individual is given the opportunity to do. An application or document used to collect information that may be used to register an individual must contain a notice that the individual's information may be used to register that individual to vote, meaning that the information would be available by persons other than the State or election officials. An election official must provide the same notice to an individual upon receipt of the registration record from the Bureau of Motor Vehicles and also must inform the individual of the ability to choose not to be registered to vote and to pick a party affiliation. If the individual fails to respond within 21 days, the individual is considered a registered voter if that individual meets the qualifications to be registered as a voter.

The Secretary of State and the Governor are allowed to designate other state agencies and departments and public and private entities, such as colleges and municipal clerk offices, as so-called source agencies that are allowed to submit registration information to the bureau for inclusion in the central voter registration system, but only if those agencies, as part of their normal course of business, collect information that provides proof of eligibility to vote, including an entity that, as of January 1, 2022, is designated under the National Voter Registration Act of 1993 as a voter registration agency that collects information that provides proof of voter eligibility. A source agency is required to comply with the same restrictions regarding sharing and use of documentation as the bureau.
Information from a source agency may also be used to update an individual's voter registration.

This bill exempts from liability an individual who is not qualified to be a registered voter but who becomes a registered voter by operation of the automatic registration, as long as that individual has not knowingly or willfully provided false information.

This bill also requires the Secretary of State to adopt major substantive rules to implement the new automatic voter registration system and submit those rules, along with any proposed legislation necessary for the proper implementation of the new system, to the Second Regular Session of the 129th Legislature.

Finally, this bill lowers the age at which a person may submit a conditional registration to vote and enrollment in a political party from 17 years of age to 16 years of age.