

HOUSE No. 4320

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 22, 2018.

The committee on Election Laws to whom were referred the petition (accompanied by bill, Senate, No. 369) of Sonia Chang-Diaz, Jason M. Lewis, James B. Eldridge and Mary S. Keefe for legislation relative to the central registry of voters, the petition (accompanied by bill, Senate, No. 373) of Cynthia S. Creem, Carmine L. Gentile, Frank A. Moran, Jason M. Lewis and other members of the General Court for legislation relative to automatically registering eligible voters and enhancing safeguards against fraud, the petition (accompanied by bill, House, No. 2080) of Evandro C. Carvalho and others relative to voter registration, the petition (accompanied by bill, House, No. 2091) of Peter V. Kocot and others relative to voter registration, the petition (accompanied by bill, House, No. 2098) of Michael J. Moran, Jonathan Hecht and Michelle M. DuBois relative to reporting requirements of state agencies to the Secretary of the Commonwealth for the maintenance of the Central Registry of Voters, the petition (accompanied by bill, House, No. 2099) of Angelo M. Scaccia and William F. Galvin (Secretary of the Commonwealth) relative to Registry of Motor Vehicles participation in the Electronic Registration Information Center, and the petition (accompanied by bill, House, No. 2105) of Angelo M. Scaccia and William F. Galvin (Secretary of the Commonwealth) relative to voter registration for certain participants in the address confidentiality program, reports recommending that the accompanying bill (House, No. 4320) ought to pass [Representative Lombardo of Billerica dissents].

For the committee,

JOHN J. MAHONEY.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act automatically registering eligible voters and enhancing safeguards against fraud.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 9A of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting after section 7 the following section:-

3 Section 8. A program participant may register to vote as a confidential voter pursuant to
4 sections 4 and 44 of chapter 51. To qualify as a confidential voter, a program participant must
5 disclose his or her residential address to the registrar of voters, which shall not be a public
6 record. Registrars, assistant registrars or boards having similar duties under any special or
7 general law, shall not place on the street list or annual register or disclose to any person the name
8 and residence of a voter providing the registrars with proof that he or she is a program
9 participant.

10 SECTION 2. Section 4 of chapter 51 of the General Laws, as appearing in the 2016
11 Official Edition, is hereby amended by inserting in line 47 after the figure “265” the following
12 words:-

13 , or a program participant in the Address Confidentiality Program established under
14 chapter 9A

15 SECTION 3. Section 42 of said chapter 51 of the General Laws, as appearing in the 2014
16 Official Edition, is hereby amended by striking out the words “section forty-two A”, in line 13,
17 and inserting in place thereof the following words:- sections 42A and 65.

18 SECTION 4. Section 42G of said chapter 51 is hereby amended by striking out section
19 42G and inserting in place thereof the following section:-

20 Section 42G. (a) Registration agencies required to provide voter registration services by
21 52 U.S.C. sections 20504 and 20506 shall conduct voter registration in a manner that is as
22 efficient, comprehensive, and as automated as practicable. Registration agencies shall transmit
23 each completed affidavit of voter registration and the information required below and in section
24 65 of this chapter to the board of registrars or election commission of the city or town where the
25 registrant resides as set forth below. The state secretary shall adopt regulations governing such
26 transmission, which shall include, but not be limited to, provisions requiring electronic
27 transmission, data security protocols, and integration with the online portals established by
28 sections, 33A and 60.

29 (b) (1) The state secretary shall enter into cooperative agreements with the Registry of
30 Motor Vehicles and MassHealth to serve as automatic voter registration agencies. The secretary
31 may enter into cooperative agreements with state agencies that provide public assistance and
32 state agencies that provide assistance to people with disabilities; provided, however, that the
33 secretary determines that (i) the registration agency consistently collects reliable citizenship
34 information for all applicants in the course of normal business; and (ii) enabling the registration

35 agency to serve as an automatic voter registration agency will materially increase voter
36 registration or the accuracy of the register of voters. Registration agencies not designated as
37 automatic voter registration agencies shall continue to provide voter registration services as
38 required by 52 U.S.C. 20504 or 20506.

39 (2) The state secretary shall determine that an agency collects “reliable citizenship
40 information” if the agency, in the regular course of business for serving applicants:

41 (A) requests, in a clear, understandable, and consistently stated manner, that customers
42 affirm their citizenship status; and,

43 (B) collects a signed affirmation of citizenship status or documentary proof of citizenship
44 status such that records of citizens are segregable from non-citizens.

45 (3) For each automatic voter registration agency, the state secretary shall:

46 (A) conduct appropriate training of agency staff;

47 (B) make available voter registration forms;

48 (C) specify all material, language, forms, and electronic interfaces necessary for the
49 collection and transmission of the information needed to carry out activities under this section;

50 (D) eliminate to the extent practicable duplicative entries into the central voter registry;

51 and

52 (E) have oversight responsibility to insure proper compliance with applicable provisions
53 of federal and state law.

54 (c) Automatic voter registration agencies shall:

55 (1) conduct automatic voter registration as specified by paragraphs (d) through (i) below;

56 (2) work with the state secretary to implement this chapter and meet the goals of
57 automatic voter registration enumerated in section 65; and,

58 (3) enter into cooperative agreements with the state secretary.

59 (d) Each eligible applicant for services at an automatic voter registration agency who
60 meets the qualifications to register to vote and does not decline to do so either in a postcard as
61 further specified in paragraph (f) and section 65 or at the point of service as specified in
62 paragraph (g) shall be registered as a voter under section 65 as of the date that the registration
63 agency collects this information. Each automatic voter registration agency shall provide notice to
64 each applicant:

65 (1) Explaining that the agency application will serve as an attestation to eligibility and an
66 application to register to vote unless the person declines to be registered;

67 (2) informing them of eligibility requirements to register to vote; and,

68 (3) advising them that non-citizens are ineligible to register, and they must decline unless
69 they are US citizens and otherwise eligible.

70 (e) For each applicant that has not declined to be registered to vote, voter registration
71 agencies shall transmit electronic records containing the legal name, age, residence, citizenship
72 information, and electronic signature of each person who meets qualifications to register to vote
73 as set forth by section 1, or to pre-register to vote as set forth in section 47A, as soon as
74 practicable but within 5 calendar days after receipt of this information, to the board of registrars
75 of the city or town in which the person resides in a manner prescribed by the secretary.

76 Registration agencies shall not transmit records that contain i) a home address designated as
77 confidential pursuant to section 8 of chapter 9A or ii) any record that does not clearly and
78 consistently indicate that the applicant meets the eligibility requirements to vote.

79 (f) Registration agencies that collect reliable citizenship information for all applicants
80 shall transmit the data required under paragraph (e) and applicants will be provided the
81 opportunity to decline according to the procedure established in section 65 of this chapter. These
82 agencies may, in addition, provide a written form prescribed by the secretary, subsequent to the
83 complete transaction for this purpose.

84 (g) Registration agencies that collect reliable citizenship information for some applicants,
85 but not all, shall, in the regular course of business for applicants:

86 (1) insure that the person's transaction with the agency cannot be completed until the
87 person has been offered an opportunity to decline to register as required under paragraph (d);

88 (2) offer to applicants who do not decline to register the opportunity to select a political
89 party or designation; and

90 (3) transmit the data required under paragraph (e) for each person who has not declined to
91 be registered to vote.

92 (h) The state secretary shall adopt regulations governing the collection and transmission
93 of personal information under this subsection, which shall include, but not be limited to,
94 provisions requiring automatic voter registration agencies to:

95 (1) employ the most cost-effective forms of transmission;

96 (2) implement measures to secure information such as encryption in order to prevent
97 security breaches and the unauthorized use of personal information as required under section 3 of
98 chapter 93H;

99 (3) implement measures for reporting security breaches or the unauthorized use of
100 personal information as required under section 3 of chapter 93H;

101 (4) provide protections against disclosure of confidential information, including home
102 addresses, designated as confidential pursuant to section 8 of chapter 9A;

103 (5) make application forms available in English and Spanish, and such additional
104 languages as the secretary deems necessary or as required by law; and

105 (6) work with the state secretary to insure, by public education and other methods, that
106 information sufficient to understand the process for and consequences of automatic voter
107 registration is available in any language that is the primary language of at least 10,000 or 1/2 of
108 1% of all residents of the commonwealth.

109

110 (i) Nothing in this subsection shall prevent an automatic voter registration agency from
111 establishing and enforcing additional security measures to protect the confidentiality and
112 integrity of inter-agency data transfers.

113 SECTION 5. Section 44 of said chapter 51, as so appearing, is hereby amended by
114 inserting in line 12 after the figure “265” the following words:-

115 , or a program participant in the Address Confidentiality Program established under
116 chapter 9A

117 SECTION 6. Section 47C of said chapter 51, as so appearing, is hereby amended by
118 adding the following paragraph:-

119 The state secretary shall enter into an agreement with the Electronic Registration
120 Information Center on behalf of the commonwealth that shall specify the terms and conditions of
121 the commonwealth's membership in the Center. The agreement shall include terms providing for
122 the periodic sharing of data between the central registry and the registry of motor vehicles and
123 the Center, including, but not limited to, voter names and addresses.

124 SECTION 7. Said chapter 51 is hereby further amended by inserting after section 64 the
125 following section:-

126 Section 65. (a) The state secretary shall promulgate regulations relative to the
127 administration of automatic voter registration, which shall be in addition to the regulations
128 otherwise authorized by this chapter, and which shall include, but not be limited to, provisions
129 relative to:

130 (1) increasing the efficiency and limiting the total cost of voter registration for the
131 commonwealth and its municipalities;

132 (2) ensuring that every eligible citizen of the commonwealth is registered to vote unless
133 they do not want to be registered;

134 (3) increasing the completeness and accuracy of the register of voters;

135 (4) preventing erroneous disenfranchisement of eligible citizens;

136 (5) promoting greater participation of eligible voters in elections;

137 (6) protecting ineligible voters from improperly being registered;

138 (7) determining the extent to which automatic voter registration materials should be
139 provided in languages other than English and Spanish, including but not limited to ensuring
140 compliance with the Voting Rights Act;

141 (8) specifying the manner of registration for Address Confidentiality Program
142 participants who interact with automatic voter registration agencies; and,

143 (9) preventing voter registration fraud.

144 (b) (1) Nothing in this section or in section 42G shall be construed to change the
145 substantive qualifications of voters established by this chapter or the constitution.

146 (2) Nothing in this section shall be construed to interfere with the registrars' duties under
147 sections 37, 38, 47B, 48 and 49 to ensure that the names of persons who are ineligible to vote do
148 not appear on the register of voters.

149 (3) Nothing in this section shall be construed to interfere with the right of any person to
150 decline to be a registered voter for any reason.

151 (c) (1) Upon receiving the electronic records described in section 42G, the board of
152 registrars or election commission shall determine whether the names of persons included in the
153 electronic records belong to persons who meet the qualifications of a voter under section 1. The
154 registrars shall notify each qualified person whose name appears in those records of the
155 automatic voter registration process.

156 (2) If the registrars determine that the person whose name appears in the electronic
157 records does not meet the qualifications of a voter under section 1, the registrars shall notify the

158 person of the determination at the address included in the electronic record, unless that person
159 has already declined to register to vote.

160 (3) If the person's voter registration information was transmitted under section 42G(f),
161 and if not otherwise receiving the same information for a qualified applicant, the registrars shall
162 notify each person under paragraph (1) an opportunity to:

163 (i) decline being registered to vote as required under section 42G(d); or,

164 (ii) adopt a political party affiliation, in which case the person must also sign an
165 eligibility requirement acknowledgement, attestation, and signature.

166 Such notification shall be provided in English and Spanish.

167 (4) If a person so notified does not decline to be registered to vote within 21 calendar
168 days after the registrar issues the notification, the registrars shall add the person's name and
169 address to the register of voters.

170 (5) The registrars shall not include in the register of voters the names of persons who
171 indicate in a signed writing that they do not wish to be registered voters.

172 (6) If the information transmitted under section 42G is for a person whose name is
173 already included in the register of voters, and if the information indicates a subsequent change to
174 the person's name, address or gender marker, the registrars shall ensure that the register of voters
175 is updated accordingly.

176 (7) Upon adding the name of a person to the register of voters under paragraph (4), the
177 registrars shall send written notice, which may be sent electronically, in a form approved by the
178 state secretary, to the registrars or equivalent officers of the place where the person was last

179 registered as a voter. Upon receiving this notice, or a similar notice from another state including
180 information from the Electronic Registration Information Center under section 47C, the
181 registrars shall immediately remove the person's name from the register of voters.

182 (d) The state secretary shall ensure that information is provided to the registrars in as
183 clear a manner as practicable, and automate the process to the extent practicable. The secretary
184 may develop electronic interfaces with registration agencies under section 42 to carry out this
185 section.

186 (e) The state secretary shall make an annual report to the joint committee on election laws
187 of the general court, which the secretary shall post on a public website. The annual report shall
188 include the following information:

189 (1) the number of records that have been transferred, by source;

190 (2) the number of voters newly added to the statewide voter registration list because of
191 records transferred;

192 (3) the number of voters on the statewide voter registration list whose information was
193 updated because of records transferred;

194 (4) the number of records transferred that do not relate to persons affirmatively identified
195 as eligible to vote; and,

196 (5) the number of persons who opted out of voter registration.

197 Any report produced under this section shall exclude personal identifying information.

198 (f) The state secretary shall ensure that, upon receipt and verification of a person's
199 express request to opt out of voter registration, the person's name and registration record is so
200 designated, unless and until the voter consents to registration. Nothing in this section shall
201 preclude a person who has previously declined voter registration from subsequently registering
202 to vote.

203 (g) The state secretary shall ensure that election officials shall not provide the record of
204 any person who has opted out of voter registration, in whole or in part, to any third party and
205 shall establish standards and procedures to safeguard the privacy and security of the information
206 used and obtained pursuant to this section.

207 (h) Any person who is not eligible to vote and who becomes registered under this
208 provision shall not be found on that basis to have made a false claim to citizenship or to have
209 committed an act involving moral turpitude, unless such person affirmatively asserts that he or
210 she is a U.S. citizen. Where a person who is not eligible to vote becomes registered under this
211 provision without affirmatively accepting registration, that person's voter registration shall be
212 considered to have been effected with official authorization and at no fault of the person so
213 registered. Where an ineligible person who becomes registered under this provision casts a ballot
214 in an election, that person shall not be held criminally liable absent a showing beyond a
215 reasonable doubt that the person knowingly and willfully intended to commit fraud, nor to the
216 extent practicable, shall such ballot be counted.

217 (i) No person may use the statewide voter registration list to attempt to determine the
218 citizenship status of any person for any purpose other than voter registration, election
219 administration, or the enforcement of laws against election crimes. No information relating to a

220 person's declination to supply information for voter registration purposes at a source may be
221 disclosed to the public, used to discriminate against that person, or used for any purpose other
222 than voter registration, election administration, or the enforcement of laws against election
223 crimes.

224 SECTION 8. Chapter 54 of the General Laws, as appearing in the 2016 Official Edition,
225 is hereby amended by striking section 25B and inserting in its place thereof the following
226 section:-

227 Section 25B. (a) The election officers and registrars of every city or town shall allow any
228 qualified voter, as defined in section 1 of chapter 51, to cast a ballot for any biennial state
229 election during the early voting period as set forth in this section including, but not limited to,
230 any city or town election held at the same time.

231 (b) The voting period for early voting shall run from the eleventh business day preceding
232 the general election until the close of business on the business day preceding the business day
233 before the election; provided, however, that if the eleventh business day before the election falls
234 on a legal holiday the early voting period shall begin on the first business day prior to the legal
235 holiday.

236 (c) Early voting shall be conducted during the usual business hours of each city or town
237 clerk. A city or town may, in its discretion, provide for additional early voting hours beyond the
238 hours required by this subsection, including weekend hours.

239 (d) Each city and town shall establish an early voting site that shall include the election
240 office for the city or town; provided, however, that if the city or town determines that the office
241 is unavailable or unsuitable for early voting, the registrars of each city or town shall identify and

242 provide for an alternative centrally-located, suitable and convenient public building within each
243 city or town as an early voting site. A city or town may also provide for additional early voting
244 sites at the discretion of the registrars for that city or town. Each early voting site shall be
245 accessible to persons with disabilities.

246 (e) The designation of an early voting site shall be made not less than 14 days prior to the
247 beginning of the voting period established in subsection (b). Not less than 7 days prior to the
248 beginning of the early voting period and at least once during the voting period, the registrars for
249 each city or town shall publish the location of the early voting sites as well as the applicable
250 dates and hours. Notice shall be published in every newspaper listed for the city or town in the
251 New England Newspaper & Press Association and shall also be conspicuously posted in the
252 office of the city clerk or on the principal official bulletin board of each city or town, on any
253 other public building considered necessary, on the city or town's website, if any, and on the
254 website of the state secretary.

255 (f) At least 21 days prior to each biennial state election, the state secretary shall deliver to
256 each city or town, in quantities as the state secretary determines necessary, official early voting
257 ballots, similar to the official ballot to be used at the election.

258 (g) An early voting ballot shall be provided to each qualified voter who participates in
259 early voting.

260 (h) A qualified voter casting a ballot at an early voting site shall complete an affidavit
261 under the regulations promulgated pursuant to this chapter, which shall include a notice of
262 penalties under section 26 of chapter 56.

263 (i) Prior to the beginning of early voting, the registrars for each city or town shall prepare
264 a list for the early voting sites, containing the names and residences of all persons qualified to
265 vote at each voting site, as the names and residences appear upon the annual register, and shall
266 reasonably transmit the applicable list to the election officers at each early voting site designated
267 by the registrars.

268 (j) The registrar or presiding official at the early voting site shall cause to be placed on
269 the voting lists opposite the name of a qualified voter who participates in early voting the letters
270 "EV" designating an early voter.

271 (k) The registrars shall prepare lists of all voters casting ballots during the early voting
272 period and update the voter list in a manner prescribed by the state secretary. Early voting ballots
273 are considered cast ballots and are not a public record as outlined in section 109 of Chapter 54.

274 (l) The state secretary shall promulgate regulations to implement this section including,
275 but not limited to, a process for establishing additional early voting locations and a process for
276 receiving, separating, compiling, recording, securing, and tabulating early voter ballots.

277 (m) Section 72 shall not apply to this section; provided, however, that a city or town may
278 opt to detail a sufficient number of police officers or constables for each early voting site at the
279 expense of the city or town to preserve order, protect the election officers and supervisors from
280 any interference with their duties and aid in enforcing the laws relating to elections.

281 (n) No early voting ballot cast under this section shall be counted if the officer charged
282 with the duty of counting the ballot is cognizant of the fact that the voter has died prior to the
283 opening of the polls on the day of the election.

284 (o) After marking their early voting ballot, voters shall deposit ballots directly into a
285 ballot box or tabulator. Tabulation of results will be in accordance with sections 105 and 105A of
286 Chapter 54.

287 SECTION 9. Section 8 of chapter 56 of the General Laws, as appearing in the 2016
288 Official Edition, is hereby amended by inserting after the word “register”, in line 10, the
289 following words:-

290 ; whoever knowingly provides false information in connection with automatic voter
291 registration under section 65 of chapter 51

292 SECTION 10. The state secretary shall implement upgrades to the central voter registry
293 to implement this act, as necessary to ensure the central voter registry:

294 (a) incorporates interfaces with both the registry of motor vehicles and MassHealth and is
295 capable of additional interfaces with other voter registration agencies in the future;

296 (b) includes programming that would:

297 (1) distinguish updates to existing voter registration records from new registration records
298 before allowing them to be posted to the central voter registry;

299 (2) removes duplicate entries before allowing them to be posted to the central voter
300 registry; and,

301 (3) to the extent practicable, maximize efficiency and automation and minimize staff time
302 at the local level.

303 SECTION 11. Section 1, Section 2, paragraph (b) of Section 42G of Section 4, Section 5,
304 Section 6, paragraph (a) of Section 65 of Section 7, and Section 8 of this act shall take effect
305 immediately. This remainder of this act shall take effect on January 1, 2020.