

HOUSE No. 4834

The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendments of the House Bill automatically registering eligible voters and enhancing safeguards against fraud (House, No. 4671), reports recommending passage of the accompanying bill (House, No. 4834) July 26, 2018.

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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.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith programs for automatically registering eligible voters and enhancing safeguards against fraud, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. Section 4 of chapter 51 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the figure “265”, in line 47, the following
3 words:- or a program participant in the address confidentiality program established under section
4 2 of chapter 9A.

5 SECTION 2. Section 42 of said chapter 51 of the General Laws, as appearing in the 2016
6 Official Edition, is hereby amended by striking out, in line 4, the words “section forty-two A”
7 and inserting in place thereof the following words:- sections 42A and 65.

8 SECTION 3. Said chapter 51 is hereby amended by striking out section 42G, as so
9 appearing, and inserting in place thereof the following section:-

10 Section 42G. (a) Registration agencies required to provide voter registration services by
11 section 1 of chapter 50, shall conduct voter registration in a manner that is as efficient,
12 comprehensive and as automated as practicable. Registration agencies shall transmit each
13 completed affidavit of voter registration to the board of registrars or election commission of the
14 city or town where the registrant resides; provided, however, that an automatic voter registration
15 agency that collects and transmits applicant data electronically shall ensure that the applicant
16 data is transmitted to the state secretary, who shall transmit such information to the board of
17 registrars or election commission of the city or town where the applicant resides. The state
18 secretary shall adopt regulations governing such transmission, which shall include, but not be
19 limited to, provisions requiring electronic transmission, the frequency and nature of such
20 transmissions, data security protocols and integration with the online portals established by
21 section 33A. A registrant shall be deemed to be a registered voter at the time of completion of a
22 signed affidavit at a registration agency or on the date that the affidavit of voter registration is
23 postmarked or on the day that it is delivered by hand to the registrars.

24 (b) The state secretary shall enter into cooperative agreements with additional agencies of
25 state government that agree to function as registration agencies. Such agreements shall provide
26 that the state secretary shall conduct appropriate training of agency staff, shall provide all forms,
27 material and equipment necessary to carry out voter registration activities, and shall have
28 oversight responsibility to ensure proper compliance with applicable provisions of federal and
29 state law.

30 SECTION 4. Said chapter 51 is hereby further amended by inserting after section 42G
31 the following section:-

32 Section 42G 1/2. (a)(1) For purposes of this section, the term “automatic voter
33 registration agency” shall mean a location where eligible citizens may register as voters,
34 provided they are state agencies.

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

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

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

41 (b)(1) The state secretary shall enter into memoranda of understanding with the registry
42 of motor vehicles and with the division of medical assistance and commonwealth health
43 insurance connector authority who shall serve as automatic voter registration agencies; provided,
44 however, that the terms of such memoranda shall include, without limitation, the timeline for the
45 establishment or enhancement of interfaces and the schedule for data to be shared between the
46 secretary’s office and the automatic voter registration agencies; provided further, that only
47 information obtained by the registry of motor vehicles from driver’s license transactions and
48 identification card transactions shall be used for automatic voter registration purposes. The state
49 secretary may enter into memoranda of understanding with state agencies that collect reliable
50 citizenship information for all applicants if the state secretary determines that enabling the
51 agency to serve as an automatic voter registration agency will materially increase voter
52 registration or the accuracy of the register of voters. Any such memorandum of understanding
53 between the state secretary and an automatic voter registration agency shall provide that the state

54 secretary shall conduct appropriate training of agency staff, shall provide all forms, material and
55 equipment necessary to carry out voter registration activities and shall have oversight
56 responsibility to ensure proper compliance with applicable provisions of federal and state law;
57 provided further, that any such memorandum of understanding shall specify that all trainings,
58 forms and materials shall be funded by the state secretary. Registration agencies not designated
59 as automatic voter registration agencies shall continue to provide voter registration services as
60 required by section 42G.

61 (2) For each automatic voter registration agency, the state secretary shall:

62 (A) conduct appropriate training of agency staff;

63 (B) make available voter registration forms;

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

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

67 and

68 (E) have oversight responsibility to ensure proper compliance with applicable provisions
69 of federal and state law.

70 (c) An agency that has entered into a memorandum of understanding to become an
71 automatic voter registration agency shall: (i) conduct automatic voter registration, as specified by
72 subsections (d) to (g), inclusive; (ii) work with the state secretary to implement this chapter and
73 meet the goals of automatic voter registration enumerated in section 65; and (iii) provide notice
74 to each applicant: (A) explaining that the agency application shall serve as an attestation to

75 eligibility and an application to register to vote unless the person declines to be registered; (B)
76 informing the applicant of the eligibility requirements to register to vote; and (C) advising the
77 applicant that non-citizens are ineligible to register, and that the applicant must decline to
78 register unless the applicant is a United States citizen and is otherwise eligible to register to vote.

79 (d) In accordance with the memorandum of understanding required by subsection (b),
80 each eligible applicant for services at an automatic voter registration agency who meets the
81 qualifications to register to vote and does not decline to do so shall be registered as a voter under
82 section 65 as of the date the registrar adds the person's name and address to the register of
83 voters, pursuant to clause (4) of subsection (d) of said section 65; provided, however, that an
84 applicant who meets the qualifications to register to vote, does not decline to register to vote and
85 completes a qualifying transaction with an automatic voter registration agency not less than 21
86 days prior to an election shall be entitled to vote in that election.

87 (e) For each applicant, an automatic voter registration agency shall transmit electronic
88 records containing information on the applicant's legal name, age, residence, citizenship and the
89 applicant's electronic signature to the state secretary who shall transmit the same to the board of
90 registrars or election commission of the city or town in which the person resides in a manner
91 prescribed by the state secretary. An automatic voter registration agency may consult with the
92 registry of motor vehicles or other agencies to augment data to be transmitted in a manner
93 prescribed by the state secretary. An automatic voter registration agency shall not transmit a
94 record that contains: (i) a home address designated as confidential pursuant to section 8 of
95 chapter 9A, or (ii) any record that does not clearly and consistently contain both the applicant's
96 electronic signature and sworn or verified information for the applicant's: (A) legal name; (B)
97 age; (C) residence; and (D) citizenship.

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

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

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

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

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

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

111 (6) work with the state secretary to insure, by public education and other methods, that
112 information sufficient to understand the process for and consequences of automatic voter
113 registration is available in all languages as required by the Voting Rights Act and all languages
114 the agency offers or provides services in.

115 (g) Nothing in this subsection shall prevent an automatic voter registration agency from
116 establishing and enforcing additional security measures to protect the confidentiality and
117 integrity of inter-agency data transfers.

118 SECTION 5. Section 44 of said chapter 51, as so appearing in the 2016 Official Edition,
119 is hereby amended by inserting after the figure “265”, in line 12, the following words:- , or a
120 program participant in the address confidentiality program, established under section 2 of chapter
121 9A.

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

124 The state secretary shall enter into an agreement with the Electronic Registration
125 Information Center on behalf of the commonwealth that shall specify the terms and conditions of
126 the commonwealth’s membership in the Center. The agreement shall include terms providing for
127 the periodic sharing of data between the central registry, the registry of motor vehicles and any
128 other automatic voter registration agency as designated by the secretary, and the Center,
129 including, but not limited to, voter names and addresses.

130 SECTION 7. Said chapter 51 is hereby further amended by adding the following section:-

131 Section 65. (a) For purposes of this section, the term ‘automatic voter registration’ shall
132 have the meaning assigned to it in section 42G ½ and the term ‘Registrars’ or ‘registrars of
133 voters’ shall have the meaning assigned to it in section 1 of chapter 50.

134 (b) The state secretary shall promulgate regulations relative to the administration of
135 automatic voter registration, which shall be in addition to the regulations otherwise authorized by
136 this chapter, and which shall include, but not be limited to, provisions relative to:

137 (1) promoting greater participation of eligible voters in elections;

138 (2) increasing the completeness and accuracy of the register of voters;

139 (3) preventing erroneous disenfranchisement of eligible citizens;

140 (4) protecting ineligible voters from improperly being registered;

141 (5) determining the extent to which automatic voter registration materials should be
142 provided in languages other than English and Spanish, including, but not limited to, languages
143 required under the National Voting Rights Act; and

144 (6) specifying the manner of registration for address confidentiality program participants
145 under section 2 of chapter 9A who interact with automatic voter registration agencies; and

146 (7) preventing voter registration fraud.

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

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

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

154 (d)(1) Upon receiving the electronic records described in section 42G ½, the board of
155 registrars or election commission shall determine whether the names of persons included in the
156 electronic records belong to persons who meet the qualifications of a voter under section 1. The
157 registrars shall notify each qualified person whose name appears in those records of the
158 automatic voter registration process.

159 (2) If the registrars determine that the person whose name appears in the electronic
160 records does not meet the qualifications of a voter under section 1, the registrars shall notify the
161 person of the determination at the address included in the electronic record, unless that person
162 has already declined to register to vote.

163 (3) The registrars shall notify each person under paragraph (1) of his or her opportunity
164 to:

165 (i) decline being registered to vote; or

166 (ii) adopt a political party affiliation, in which case the person shall also sign an eligibility
167 requirement acknowledgement and attestation.

168 Such notification shall be provided in English and Spanish and any additional languages
169 to be determined by the state secretary.

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

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

175 (6) If the information transmitted under section 42G 1/2 is for a person whose name is
176 already included in the register of voters, and if the information indicates a subsequent change to
177 the person's name, address or gender marker, the registrars shall ensure that the register of voters
178 is updated accordingly.

179 (7) Upon adding the name of a person to the register of voters under paragraph (4), the
180 registrars shall send written notice, which may be sent electronically, in a form approved by the
181 state secretary, to the registrars or equivalent officers of the place where the person was last
182 registered as a voter. Upon receiving this notice, or a similar notice from another state including
183 information from the Electronic Registration Information Center under section 47C, the
184 registrars shall immediately remove the person's name from the register of voters.

185 (8) The state secretary's office shall provide mandatory training for all registrars on the
186 administration of the requirements enumerated in this subsection.

187 (e) The state secretary shall ensure that information is provided to the registrars in as
188 clear a manner as practicable, and automate the process to the extent practicable. The state
189 secretary may develop electronic interfaces with automatic voter registration agencies under
190 section 42G 1/2 to carry out this section.

191 (f) The state secretary shall make an annual report to the joint committee on election laws
192 of the general court, which the secretary shall post on a public website. The annual report shall
193 include the following information: the number of voters newly registered to the statewide voter
194 registration list updated by an automatic voter registration agency, broken down by agency; the
195 total number of voter records on the statewide voter registration list updated because of records
196 transferred by an automatic voter registration agency; and the number of persons who opted out
197 of voter registration. The state secretary shall also study and include within the annual report
198 recommendations to strengthen and clarify automatic voting requirements as they pertain to
199 eligibility for voting in municipal, state and federal elections, so as to ensure for the maximum

200 extent possible that the requirements are clear, easily understood and enforceable in an efficient
201 manner. Any report produced under this section shall exclude personal identifying information.

202 (g) Nothing in this section shall preclude a person who has previously declined voter
203 registration from subsequently registering to vote.

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

208 (i) Any person who is not eligible to vote and who becomes registered under this
209 provision shall not be found on that basis to have made a false claim to citizenship or to have
210 committed an act involving moral turpitude, unless such person affirmatively asserts that he or
211 she is a citizen of the United States. Where a person who is not eligible to vote becomes
212 registered under this provision without affirmatively accepting registration, that person's voter
213 registration shall be considered to have been effected with official authorization and at no fault
214 of the person so registered.

215 (j) No person may use the statewide voter registration list to attempt to determine the
216 citizenship status of any person for any purpose other than voter registration, election
217 administration or the enforcement of laws against election crimes. No information relating to a
218 person's declination to supply information for voter registration purposes at a source may be
219 disclosed to the public, used to discriminate against that person or used for any purpose other
220 than voter registration, election administration or the enforcement of laws against election
221 crimes.

222 SECTION 7A. Said chapter 51 is hereby further amended by adding the following
223 section:-

224 Section 66. The registry of motor vehicles, and any other state agency, shall provide data,
225 as deemed necessary by the state secretary, for the purposes of maintaining accurate and
226 complete voter lists. At least every 2 months, the registry of motor vehicles, and any other state
227 agency the secretary designates, shall electronically transmit to the secretary all data as directed
228 by the secretary and relevant to the purposes of voter registration, including, if available, the
229 following record fields: (i) name, current address, mailing address, date of birth, driver's license
230 number or last 4 digits of the social security number and telephone number; (ii) date, time and
231 nature of the last change to the information; and (iii) any additional information designated by
232 the state secretary for such purposes and reasonably related to maintaining accurate and complete
233 voter lists.

234 The secretary shall provide the names and addresses and other data contained in said
235 central registry, as well as information received from the registry of motor vehicles and any other
236 agency received for the purpose of maintaining accurate and complete voting lists, to the
237 Electronic Registration Information Center ("ERIC").

238 The secretary shall implement if practicable a centralized system to manage and evaluate
239 data received from ERIC to send mailings to voters centrally rather than from the local level. In
240 the absence of such central management, if any actions regarding possibly inaccurate
241 information in the voter registry requires any action by the registrars, the secretary shall provide
242 any such information to the registrars in electronic form and in a manner minimizing data
243 management at the local level.

244 SECTION 8. Section 8 of chapter 56 of the General Laws, as appearing in the 2016
245 Official Edition, is hereby amended by inserting after the word “register”, in line 10, the
246 following words:- ; whoever knowingly provides false information in connection with automatic
247 voter registration under section 65 of chapter 51.

248 SECTION 9. The state secretary shall implement upgrades to the central voter registry to
249 implement this act, as necessary to ensure the central voter registry incorporates interfaces with
250 the registry of motor vehicles, MassHealth and other voter registration agencies, as determined
251 by the state secretary.

252 SECTION 10. Notwithstanding any general or special law to the contrary, the state
253 secretary shall promulgate regulations for the implementation of automatic voter registration not
254 later than July 31, 2019.

255 SECTION 11. Sections 2, 3, 4, 7 and 8 shall take effect on January 1, 2020.