

PLEASE NOTE: The Office of the Revisor of Statutes **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
124th Legislature
Second Regular Session

Chapter 563
H.P. 1117 - L.D. 1579

An Act To Facilitate Voting by Uniformed Service and Overseas Voters

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, changes to current law are necessary to ensure that uniformed service and overseas voters are able to participate in elections; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 21-A MRSA §753-A, sub-§6, as amended by PL 2009, c. 253, §47, is further amended to read:

6. Application by electronic means. A municipal clerk ~~may opt to~~ shall accept absentee ballot applications by the electronic means authorized by the Secretary of State. ~~At least 120 days before any election administered by the State, the clerk shall notify the Secretary of State of the clerk's intention to accept absentee ballot applications by electronic means. The Secretary of State shall post on its publicly accessible website a list of municipalities that have opted to accept absentee ballot applications by electronic means along with procedures for requesting an absentee ballot by electronic means. The Secretary of State shall design or approve the form of the absentee ballot application to be submitted by electronic means.~~

~~If the clerk opts to accept absentee ballot applications by electronic means, a~~ A voter may make an application for the voter's own ballot by electronic means using the form designed or approved by the Secretary of State. The voter may not designate an immediate family member or a 3rd person to deliver the ballot on the voter's behalf. The clerk shall verify that it is the voter who is requesting the ballot by confirming the voter's residence address and birth date with the information in the voter's record. The clerk shall print the electronically submitted application and write "electronic request" on the application.

Sec. 2. 21-A MRSA §753-B, sub-§1, as amended by PL 2007, c. 455, §41, is further amended to read:

1. Application or written request received. Upon receipt of an application, ~~or written request or telephone application~~ for an absentee ballot that is accepted pursuant to section 753-A, the clerk shall immediately issue an absentee ballot and return envelope by mail or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter, except that the clerk does not have to issue a ballot by mail to ~~an address outside the municipality for a voter whose request was received on the day before election day or to any voter whose request was received on election day after 5:00 p.m. on the Thursday before election day.~~ The clerk shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope.

Sec. 3. 21-A MRSA §777-A, as enacted by PL 2003, c. 407, §28, is amended to read:

§ 777-A. Registration and enrollment

Uniformed service voters or overseas voters may register or enroll at any time by completing a federal or state voter registration application form and filing it with the registrar or the Secretary of State in person, by mail or by electronic means authorized by the Secretary of State.

Sec. 4. 21-A MRSA §778, as amended by PL 2005, c. 453, §§60 and 61, is further amended to read:

§ 778. Duty of registrar

On receipt of an application under section 777-A, the registrar or the Secretary of State in consultation with the registrar shall register the applicant, unless it appears that the applicant is not qualified. If the applicant is not qualified, the registrar or the Secretary of State shall notify the applicant of the reason for rejection of the application.

1. Member specially designated. The registrar or the Secretary of State shall designate a uniformed service voter in the central voter registration system with the letter "S".

2. Overseas voter specially designated. The registrar or the Secretary of State shall designate an overseas voter in the central voter registration system with the letter "O".

Sec. 5. 21-A MRSA §780, as repealed and replaced by PL 2003, c. 407, §31, is amended to read:

§ 780. Absentee ballots; application

A uniformed service voter or an overseas voter may request an absentee ballot as provided in section 753-A or by submitting a federal application or form requesting an absentee ballot as provided in section 783. With respect to any election for federal office, a clerk or the Secretary of State may not refuse to accept or process any otherwise valid voter registration application or absentee ballot application submitted by a uniformed service voter or an overseas voter on the grounds that the voter submitted the application more than 3 months before the election for which the application will be used. An application or request for an absentee ballot for a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783 remains valid ~~through the next 2 regularly scheduled general elections for federal office for 2 years from the date of receipt of the application~~ and entitles the voter to receive absentee ballots for all federal and state elections during that period.

Sec. 6. 21-A MRSA §780-A, as enacted by PL 2003, c. 407, §32, is amended to read:

§ 780-A. Use of blank write-in absentee ballot

Prior to the time when regular absentee ballots are available, if an applicant requests a blank write-in absentee ballot or indicates that it takes more than 6 weeks to receive and return mail to the applicant's location, the clerk Secretary of State shall send a blank write-in absentee ballot to the voter or shall transmit the regular absentee ballot by an authorized electronic means if the voter has designated that the voter wishes to receive that ballot by that means. ~~Once the regular absentee ballots become available, the clerk shall issue a regular absentee ballot in response to any request under this section. If the clerk has issued a blank write-in absentee ballot to a voter before the regular absentee ballots become available, the clerk may send a regular absentee ballot to the voter, following the procedures for issuing a 2nd absentee ballot under section 753-B.~~

Sec. 7. 21-A MRSA §781-A, as enacted by PL 2003, c. 407, §34, is amended to read:

§ 781-A. Absentee ballot application; procedure on receipt

Upon receipt of an application; ~~or written request or telephone application~~ for an absentee ballot that is accepted pursuant to section 753-A or section 783, the clerk ~~or the Secretary of State~~ shall immediately issue an absentee ballot and return envelope by mail ~~or in person to the applicant or to the immediate family member or to a 3rd person designated in a written application or request made by the voter~~ the authorized means designated by the voter in the application. ~~The~~ If the ballot is to be transmitted to the voter by mail, the clerk or the Secretary of State shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope which that moves free of postage under federal law.

Sec. 8. 21-A MRSA §782, as amended by PL 2003, c. 407, §35, is further amended to read:

§ 782. Absentee ballots; procedure on return

On receipt of a return envelope apparently containing an absentee ballot, the clerk ~~or the Secretary of State~~ shall follow the procedures for regular absentee voting under this subchapter.

Sec. 9. 21-A MRSA §783, as amended by PL 2003, c. 407, §35, is further amended to read:

§ 783. Authority of Secretary of State

The Secretary of State may act administratively to facilitate voting by uniformed service voters and overseas voters. ~~The Secretary of State and~~ may use federal or other facilities available for this purpose. These administrative actions may include, but are not limited to:

1. Central issuance of absentee ballots. Issuing absentee ballots to uniformed service voters and overseas voters from a central location in order to ensure expedited delivery of absentee ballots;

2. Central receipt of absentee ballots. Receiving absentee ballots from uniformed service voters and overseas voters at a central location in order to ensure that the ballots are received by the statutory deadline;

3. Central counting of absentee ballots. Counting absentee ballots from uniformed service voters and overseas voters at a central location and including the count of these votes in the statewide tabulation of the vote;

4. Electronic transmission of absentee ballots. Authorizing the electronic transmission of absentee ballots to uniformed service voters or overseas voters; and

5. Electronic receipt of absentee ballots. Authorizing the electronic receipt of an image of voted absentee ballots transmitted by e-mail or fax from uniformed service voters or overseas voters.

The Secretary of State shall adopt rules to administer the central issuance and processing of absentee ballots, including rules that provide for the examination, counting and storage of ballots in the same manner as regular absentee ballots. Rules adopted in accordance with this section are routine technical rules as described by Title 5, chapter 375, subchapter 2A.

Sec. 10. Report. No later than March 1, 2011, the Secretary of State shall submit a report to the joint standing committee of the Legislature having jurisdiction over voting matters regarding the central issuance and processing of absentee ballots for uniformed service and overseas voters including the provisions adopted by rule to provide for examination, counting and storage of those ballots. The joint standing committee of the Legislature having jurisdiction over voting matters may submit a bill to the First Regular Session of the 125th Legislature.

Sec. 11. Application. This Act does not apply to the primary election scheduled to occur in June 2010.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved except as otherwise indicated.

Effective March 29, 2010.