

HOUSE No. 4667

The Commonwealth of Massachusetts

**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:-

4 , or a program participant in the address confidentiality program established under section
5 2 of chapter 9A.

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

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

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

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

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

29 Section 42G 1/2. (a)(1) For purposes of this section, the term “automatic voter
30 registration agency” shall mean a location where eligible citizens may register as voters,
31 including city or town clerk's offices, military recruitment offices, and offices of all state
32 agencies that provide public assistance or assistance to people with disabilities, offices that

33 provide state-funded programs primarily engaged in providing services to people with
34 disabilities and any other state offices which the state secretary shall designate.

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 MassHealth to serve as automatic voter registration agencies. The state
43 secretary may enter into memoranda of understanding with state agencies that collect reliable
44 citizenship information for all applicants if the state secretary determines that enabling the
45 agency to serve as an automatic voter registration agency will materially increase voter
46 registration or the accuracy of the register of voters. Any such memorandum of understanding
47 between the state secretary and an automatic voter registration agency shall provide that the state
48 secretary shall conduct appropriate training of agency staff, shall provide all forms, material and
49 equipment necessary to carry out voter registration activities and shall have oversight
50 responsibility to ensure proper compliance with applicable provisions of federal and state law;
51 provided further, that any such memorandum of understanding shall specify that all trainings,
52 forms and materials shall be funded by the state secretary. Registration agencies not designated
53 as automatic voter registration agencies shall continue to provide voter registration services as
54 required by section 42G.

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

56 (A) conduct appropriate training of agency staff;

57 (B) make available voter registration forms;

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

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

61 and

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

64 (c) Automatic voter registration agencies shall:

65 (1) conduct automatic voter registration as specified by subsections (d) to (g);

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

68 (3) enter into memoranda of understanding with the state secretary.

69 (d) Each eligible applicant for services at an automatic voter registration agency who
70 meets the qualifications to register to vote and does not decline to do so shall be registered as a
71 voter under section 65 as of the date the registrar adds the person's name and address to the
72 register of voters, pursuant to clause (4) of subsection (d) of said section 65. Each automatic
73 voter registration agency shall provide notice to each applicant:

74 (1) explaining that the agency application shall serve as an attestation to eligibility and an
75 application to register to vote unless the person declines to be registered;

76 (2) informing the applicant of eligibility requirements to register to vote; and

77 (3) advising the applicant that non-citizens are ineligible to register, and they must
78 decline unless they are US citizens and otherwise eligible.

79 (e) For each applicant that has not declined to be registered to vote, automatic voter
80 registration agencies shall transmit electronic records containing the legal name, age, residence,
81 citizenship information and electronic signature of each person who meets qualifications to
82 register to vote as set forth by section 1, or to pre-register to vote as set forth in section 47A, as
83 soon as practicable but within 5 calendar days after receipt of this information, to the board of
84 registrars or election commission of the city or town in which the person resides in a manner
85 prescribed by the state secretary. Automatic voter registration agencies shall not transmit records
86 that contain: (i) a home address designated as confidential pursuant to section 8 of chapter 9A, or
87 (ii) any record that does not clearly and consistently indicate that the applicant meets the
88 eligibility requirements to vote.

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

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

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

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

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

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

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

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

109 SECTION 5. Section 44 of said chapter 51, as so appearing in the 2016 Official Edition,
110 is hereby amended by inserting, in line 12, after the figure “265”, in line 12, the following
111 words:-

112 , or a program participant in the address confidentiality program, established under
113 section 2 of chapter 9A.

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

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

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

122 Section 65. (a) For purposes of this section, the term "automatic voter registration
123 agency" shall have the meaning assigned to it in section 42G 1/2 of this chapter.

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

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

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

129 (3) preventing erroneous disenfranchisement of eligible citizens;

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

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

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

136 (7) preventing voter registration fraud.

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

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

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

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

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

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

155 (i) decline being registered to vote; or

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

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

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

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

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

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

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

179 (f) The state secretary shall make an annual report to the joint committee on election laws
180 of the general court, which the secretary shall post on a public website. The annual report shall
181 include the following information: the number of voters newly registered to the statewide voter
182 registration list updated by an automatic voter registration agency, broken down by agency; the
183 total number of voter records on the statewide voter registration list updated because of records
184 transferred by an automatic voter registration agency; and the number of persons who opted out
185 of voter registration. Any report produced under this section shall exclude personal identifying
186 information.

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

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

193 (i) Any person who is not eligible to vote and who becomes registered under this
194 provision shall not be found on that basis to have made a false claim to citizenship or to have
195 committed an act involving moral turpitude, unless such person affirmatively asserts that he or
196 she is a citizen of the United States. Where a person who is not eligible to vote becomes

197 registered under this provision without affirmatively accepting registration, that person’s voter
198 registration shall be considered to have been effected with official authorization and at no fault
199 of the person so registered.

200 (j) No person may use the statewide voter registration list to attempt to determine the
201 citizenship status of any person for any purpose other than voter registration, election
202 administration or the enforcement of laws against election crimes. No information relating to a
203 person’s declination to supply information for voter registration purposes at a source may be
204 disclosed to the public, used to discriminate against that person or used for any purpose other
205 than voter registration, election administration or the enforcement of laws against election
206 crimes.

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

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

215 SECTION 10. Sections 1, 5, 6 and 9 of this act shall take effect upon passage.

216 SECTION 11. Notwithstanding any general or special law to the contrary, the state
217 secretary shall promulgate regulations for the implementation of automatic voter registration not
218 later than July 31, 2019.

SECTION 12. The remainder of this act shall take effect on January 1, 2020.