



# 128th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2018

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Legislative Document

No. 1846

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H.P. 1283

House of Representatives, February 27, 2018

### **An Act To Require the Provision of Photographic Identification by Voters**

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative FARRIN of Norridgewock. (GOVERNOR'S BILL)  
Cosponsored by Senator WHITTEMORE of Somerset and  
Representative: FREDETTE of Newport, Senators: COLLINS of York, MASON of  
Androscoggin, President THIBODEAU of Waldo.

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

2 **Sec. 1. 21-A MRSA §671, sub-§1**, as amended by PL 2005, c. 453, §55, is  
3 further amended to read:

4 **1. Name announced; proof of identity.** A voter person who wishes to vote must  
5 state the voter's name and present proof of identity in the form of a photographic  
6 identification document and, upon request, state the voter's residence address to an  
7 election clerk, who shall announce the name in a loud, clear voice. Photographic  
8 identification required by this subsection must be an official identification document or  
9 card issued by a state, the Federal Government or a college or university located in the  
10 State, or an electronic benefits transfer card under Title 22, chapter 1, subchapter 1-A that  
11 displays an identifying photograph, and may not be expired. An election worker may use  
12 the photographic identification required by this subsection solely for the purpose of  
13 verifying the identity of the person who wishes to vote. If a person who wishes to vote  
14 does not present photographic identification, that person must be permitted to cast a  
15 provisional ballot as provided by section 671-A. Before November 9, 2018, the identity  
16 of a person who does not present photographic proof of identity but is known to an  
17 election worker, as defined in subsection 1-A, at the voting place may be verified as  
18 provided in subsection 1-A.

19 **Sec. 2. 21-A MRSA §671, sub-§1-A** is enacted to read:

20 **1-A. Voter known to election worker; verification of identity.** A person who does  
21 not provide photographic identification on election day as required by subsection 1 and is  
22 known to an election worker at the voting place may be issued a ballot after completion  
23 and signing of an affidavit by the election worker. The affidavit must be in a form  
24 prescribed by the Secretary of State and must be written to indicate that the election  
25 worker can personally attest to the identity of the voter. The election worker may issue  
26 the voter a ballot after the election worker who can attest to the identity of the voter has  
27 signed the affidavit. For the purposes of this subsection, "election worker" includes a  
28 municipal clerk, registrar and election official.

29 This subsection is repealed November 9, 2018.

30 **Sec. 3. 21-A MRSA §671-A** is enacted to read:

31 **§671-A. Provisional voting**

32 A person who has not provided photographic identification as required by section  
33 671, subsection 1 and has not had the person's identity verified by affidavit as provided in  
34 section 671, subsection 1-A must be permitted to cast a provisional ballot as follows.

35 **1. Provisional ballot affidavit.** In order to cast a provisional ballot under this  
36 section, a person must complete and sign a provisional ballot affidavit, swearing to or  
37 affirming that that person is the person that person claims to be on the incoming voting  
38 list. The provisional ballot affidavit must be on a form designed by the Secretary of State  
39 and must include, at a minimum, the person's name, address, party affiliation, if any, and  
40 reason that the person was not able to provide photographic proof of identity.

1           **2. Provisional ballot and provisional ballot envelope issued.** As soon as the  
2 provisional ballot affidavit form under subsection 1 has been completed, the election  
3 clerk in charge of ballots shall give a provisional ballot and a provisional ballot envelope  
4 to the warden. The warden shall write a provisional ballot number on the affidavit form  
5 and the provisional ballot envelope and give the ballot and envelope to the voter. The  
6 warden also shall give the voter a notice about provisional voting, on a form designed by  
7 the Secretary of State, that includes the provisional ballot number assigned to the voter's  
8 ballot. The form must clearly state that the person who wishes to vote has 3 business  
9 days to provide the municipal clerk, deputy clerk, warden or election clerk photographic  
10 proof of identity as prescribed in section 671, subsection 1 in order for the provisional  
11 ballot to be counted.

12           **3. Proceed to vote.** After a voter marks the provisional ballot under subsection 2,  
13 the voter shall seal it in the provisional ballot envelope and return it to the warden.

14           **4. Provisional ballots segregated and logged.** The warden shall place a provisional  
15 ballot envelope containing a provisional ballot completed under this section in a  
16 tamper-proof container until the identity of the person marking the ballot can be verified  
17 by photographic identification as required by section 671, subsection 1. The warden also  
18 shall complete a provisional ballot log, on a form provided by the Secretary of State, that  
19 indicates for each provisional ballot the name of the voter, the provisional ballot number  
20 and a notation of whether the provisional ballot was resolved and cast. The sealed  
21 tamper-proof containers of provisional ballots that are not resolved must be returned to  
22 the municipal clerk after the polls are closed. Provisional ballot affidavits and the  
23 provisional ballot log form must be sealed in tamper-proof containers separately from the  
24 provisional ballots and returned to the municipal clerk.

25           **5. Resolution and counting of provisional ballots.** When a provisional ballot is  
26 cast under this section, the municipal clerk or registrar shall proceed as follows.

27           **A.** If the identity of a person casting a provisional ballot under this section is verified  
28 upon presentation of acceptable photographic identification by the close of the polls  
29 on election day, the clerk or registrar shall designate on the provisional ballot log  
30 under subsection 4 that the provisional ballot was accepted. The warden shall remove  
31 the provisional ballot from the sealed provisional ballot envelope and place it into the  
32 ballot box or tabulator to be counted with the other ballots after the polls close. The  
33 election clerk in charge of the incoming voting list shall annotate the incoming voting  
34 list to indicate that the voter voted.

35           **B.** If the identity of a person casting a provisional ballot under this section is verified  
36 upon presentation of acceptable photographic identification after the close of the polls  
37 on election day, but not later than the 3rd business day after the election, the clerk or  
38 registrar shall designate on the provisional ballot log under subsection 4 that the  
39 provisional ballot was accepted. The clerk or registrar, in the presence of one or more  
40 witnesses, shall remove the provisional ballot from the sealed provisional ballot  
41 envelope and place it into a ballot box in a manner that preserves the secrecy of the  
42 vote. After all accepted provisional ballots have been placed into the ballot box, the  
43 clerk or registrar shall remove and count the provisional ballots in the same manner  
44 as regular ballots. After the incoming voting list is unsealed following the election,

1 the clerk or registrar shall annotate the list to add the names and addresses of the  
2 voters under this subsection, along with an indication that the voters voted.

3 C. If a person casting a provisional ballot under this section has not presented  
4 photographic identification acceptable to verify the person's identity within 3  
5 business days after the election, the clerk or registrar shall write "rejected" on the  
6 provisional ballot envelope and return the unopened envelope to the tamper-proof  
7 container. The clerk or registrar shall update the provisional ballot log under  
8 subsection 4 to indicate the ballot was rejected.

9 D. Rejected provisional ballots, provisional ballot affidavits and the provisional  
10 ballot logs must be maintained as provided by section 23, subsection 7.

11 **6. Report to Secretary of State.** No later than 3 business days after an election, the  
12 clerk shall report the status of all provisional ballots of the municipality under this section  
13 to the Secretary of State by providing a copy of the provisional ballot log under  
14 subsection 4. In addition to annotating the provisional ballot log to indicate whether  
15 provisional ballots were accepted or rejected, the clerk shall update the municipality's  
16 return of votes cast to include the votes cast by all provisional voters who presented  
17 acceptable photographic identification.

18 **7. Secretary of State to make status available.** Within 20 days after an election,  
19 the Secretary of State shall make available on the Secretary of State's publicly accessible  
20 website the total number of provisional ballots under this section for that election,  
21 including the number of ballots that were counted and the number of ballots that were not  
22 counted. For a ballot that was not counted, the reason the ballot was not counted must be  
23 included.

24 **Sec. 4. 29-A MRSA §1410, sub-§12** is enacted to read:

25 **12. Identification cards for the purpose of voting.** A person who submits an  
26 application for a nondriver identification card is not required to pay the fee required by  
27 subsection 2 if the person attests in the application that:

28 A. The person does not have photographic identification acceptable for the  
29 verification of the person's identity for the purpose of voting as required by Title  
30 21-A, section 671, subsection 1; and

31 B. The person is applying for a nondriver identification card solely for the purpose of  
32 voting.

### 33 **SUMMARY**

34 This bill requires that a voter provide proof of identity with photographic  
35 identification for the purpose of voting. The bill specifies the types of photographic  
36 identification that may be used to verify the identity of a voter. It provides that a person  
37 who does not present photographic identification may cast a provisional ballot and  
38 establishes the process for provisional voting. Under this process, if the person can verify  
39 the person's identity to the municipal clerk, deputy clerk or warden or an election clerk  
40 within 3 business days after the election by presenting acceptable photographic

1 identification, the ballot will be cast as a regular ballot. Through the general election of  
2 2018, a person who does not present acceptable photographic identification but is known  
3 to a municipal clerk, registrar or election official at the voting place may cast a regular  
4 ballot upon submission of an affidavit by the municipal clerk, registrar or election official  
5 attesting to the person's identity. The bill requires that provisional ballots must be  
6 retained in tamper-proof containers separately from provisional ballot affidavits and the  
7 provisional ballot log and that rejected provisional ballots, provisional ballot logs and  
8 provisional ballot affidavits must be retained in the same manner as regular ballots and  
9 election materials. Finally, the bill requires the Secretary of State to provide, without a  
10 fee, nondriver identification cards to eligible persons who do not have another form of  
11 acceptable photographic identification to verify identity for the purpose of voting.