



# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1375

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H.P. 1009

House of Representatives, April 7, 2021

### An Act To Permit Online Absentee Voting

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Received by the Clerk of the House on April 5, 2021. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT  
Clerk

Presented by Representative TERRY of Gorham.

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

2 **Sec. 1. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is  
3 amended by amending subparagraph (6) to read:

4 (6) Did not properly complete the affidavit on the absentee ballot return envelope  
5 or the affidavit required by section 754-B, subsection 4;

6 **Sec. 2. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is  
7 amended by amending subparagraph (7) to read:

8 (7) Did not cast the absentee ballot or complete the affidavit on the absentee ballot  
9 return envelope or the affidavit required by section 754-B, subsection 4 before the  
10 appropriate witness;

11 **Sec. 3. 21-A MRSA §673, sub-§1, ¶A**, as corrected by RR 2011, c. 2, §21, is  
12 amended by amending subparagraph (8) to read:

13 (8) Communicated with someone as prohibited by section 754-A, subsection 1,  
14 paragraph B or; subsection 3 2, paragraph B; or subsection 3, paragraph D or as  
15 prohibited by section 754-B, subsection 4, paragraph A or B;

16 **Sec. 4. 21-A MRSA §753-B, sub-§6**, as amended by PL 2013, c. 457, §3, is further  
17 amended to read:

18 **6. Clerk to keep list of absentee voters.** The clerk shall create and maintain, in the  
19 central voter registration system, an alphabetical list, by district, of the persons who  
20 requested or were furnished absentee ballots, including the persons who voted in the  
21 presence of the clerk under subsection 8 and, the persons whose ballots were issued to a  
22 3rd person under subsection 1 and the persons who requested to vote by absentee ballot by  
23 electronic means pursuant to section 754-B. The clerk shall maintain a copy of the lists  
24 required under this subsection for a period of 2 years as a public record.

25 A. The list of absentee voters and absentee voter applicants must include each voter's  
26 name, residence address, voting district and party affiliation; the date and manner by  
27 which the ballot was requested, issued and received; and a notation of whether the  
28 application and the ballot were accepted or rejected. The clerk must also indicate on  
29 the list when the absentee voter is a uniformed service voter, overseas voter or township  
30 voter. By the time that all absentee ballots have been processed on election day, the  
31 clerk must update the central voter registration system or annotate the printed list of  
32 absentee voters to reflect all ballots that were received by the close of the polls on  
33 election day, including a notation of whether the ballots were accepted or rejected and  
34 the reasons for such rejections. This list, reflecting all absentee ballots received by the  
35 close of the polls, must be made available for public inspection. Any absentee voter  
36 certified as a participant in the Address Confidentiality Program pursuant to Title 5,  
37 section 90-B must be listed by the voter code assigned to that individual under the  
38 program instead of by the voter's name and reflect the Address Confidentiality Program  
39 address assigned to the voter. The list of absentee voters and absentee voter applicants  
40 must be sorted so that the program participants appear at the end of the list and must  
41 be printed on a separate page of the list. The portion of the list of absentee voters and  
42 absentee voter applicants relating to Address Confidentiality Program participants  
43 must be kept under seal and excluded from public inspection.

1 B. The clerk creates the list of absentee voters and absentee voter applicants as required  
2 in paragraph A by marking the records of registered voters in the central voter  
3 registration system. The clerk must sign and date each official printed copy of the list  
4 of absentee voters and absentee voter applicants that is created for public inspection,  
5 certifying that the list is a true and accurate list of absentee voters and absentee voter  
6 applicants for the applicable election. No additional certification is required by the  
7 registrar of voters.

8 C. The clerk shall also keep a list of the 3rd persons designated in applications or  
9 written requests to whom absentee ballots are sent or delivered under subsection 1 and  
10 of the number of absentee ballots sent or delivered to them. This list of 3rd person  
11 ballot carriers must include telephone numbers for contacting the 3rd persons.

12 E. Within 5 business days after each election, the clerk shall update the central voter  
13 registration system to include the changes required by paragraph A. The clerk also  
14 must update the central voter registration system to reflect any absentee ballots  
15 received after the polls have closed on election day by changing the rejection reason.  
16 When all updates have been made in the central voter registration system, the clerk  
17 shall certify this to the Secretary of State and make a final list of absentee ballots  
18 available for public inspection.

19 **Sec. 5. 21-A MRSA §754-A, first ¶**, as amended by PL 2005, c. 364, §9, is further  
20 amended to read:

21 Except as provided in section 753-B, subsection 8 ~~and~~, section 753-C and section  
22 754-B, the method of voting by absentee ballot is as follows.

23 **Sec. 6. 21-A MRSA §754-B** is enacted to read:

24 **§754-B. Absentee voting by electronic means**

25 Notwithstanding any provision of this Title to the contrary, a voter may vote by  
26 absentee ballot by electronic means in accordance with this section.

27 **1. Application to vote by absentee ballot by electronic means.** A voter may submit  
28 an application to vote by absentee ballot by electronic means using an electronic form  
29 designed or approved by the Secretary of State.

30 **2. Deadline for requesting to vote by absentee ballot by electronic means.** The  
31 Secretary of State may not accept an application to vote by absentee ballot by electronic  
32 means if the request is received after the date established in section 753-B, subsection 2,  
33 paragraph D unless the voter states one of the reasons set forth in that paragraph for  
34 requesting an absentee ballot after the deadline.

35 **3. Approval or denial of application.** The Secretary of State shall verify the identity  
36 of the voter who submits an application under subsection 1 in accordance with rules  
37 adopted under subsection 7. If the applicant's identity is verified, if the applicant is  
38 registered to vote and, in the case of a primary election, if the applicant is enrolled and  
39 meets the requirements of section 111-A, the Secretary of State shall approve the  
40 application, permit the voter to vote in accordance with subsection 4 and immediately  
41 transmit an electronic copy of the approved application to the relevant municipal clerk.  
42 Otherwise, the Secretary of State shall deny the application and shall immediately notify

1 the applicant and the relevant municipal clerk by electronic means of the reason for the  
2 denial.

3 **4. Method of voting.** When a voter's application to vote by absentee ballot is approved  
4 under subsection 3, the voter must be allowed to immediately vote by electronic means in  
5 accordance with this subsection using an electronic absentee ballot designed or approved  
6 by the Secretary of State.

7 A. Unless the voter receives assistance pursuant to paragraph B, the voter shall mark  
8 the electronic absentee ballot according to section 691 or 692 and rules adopted  
9 pursuant to this section so that it is impossible for anyone present at the time to see  
10 how the voter voted. While the voter is marking the electronic absentee ballot under  
11 this paragraph, there may be no communication between the voter and any other  
12 individual as to the person or question for which the voter is to vote. After marking  
13 the electronic absentee ballot in accordance with this paragraph, the voter must  
14 complete an electronic affidavit using an electronic form designed and approved by the  
15 Secretary of State.

16 B. Notwithstanding paragraph A, if the voter is unable to read or mark the electronic  
17 absentee ballot because of the voter's physical disability, illiteracy or religious faith,  
18 the voter may request another person, other than the voter's employer, an agent or  
19 officer of the voter's employer or an agent or officer of the voter's union, if any, to assist  
20 the voter in reading or marking the electronic absentee ballot. If the voter receives  
21 assistance under this paragraph, the voter or the aide must mark the electronic absentee  
22 ballot according to section 691 or 692 and rules adopted pursuant to this section in the  
23 presence of a witness. While the voter or the aide is marking the electronic absentee  
24 ballot under this paragraph, there may be no communication between the voter and any  
25 individual other than the aide who must mark the electronic absentee ballot in  
26 accordance with the voter's instructions for each office or question on the ballot. After  
27 marking the electronic absentee ballot in accordance with this paragraph:

28 (1) The voter, or the aide at the voter's request, shall in the presence of the witness  
29 complete and sign an electronic affidavit using an electronic form designed and  
30 approved by the Secretary of State; and

31 (2) The witness and the aide shall sign the electronic witness and aide certifications,  
32 respectively, using an electronic form designed and approved by the Secretary of  
33 State.

34 **5. Deadline for submission of ballot; transmittal to municipal clerk.**  
35 Notwithstanding section 755, in order to be valid, an absentee ballot submitted by  
36 electronic means in accordance with this section must be submitted electronically to the  
37 Secretary of State before the polls are closed on election day. The Secretary of State shall  
38 immediately transmit an electronic copy of the submitted absentee ballot, the affidavit and  
39 any certifications to the relevant municipal clerk.

40 **6. Procedure on receipt.** When a clerk receives an electronic copy of a submitted  
41 absentee ballot, an affidavit and any certifications from the Secretary of State pursuant to  
42 subsection 5, the clerk shall process the absentee ballot in accordance with procedures  
43 established by the Secretary of State by rule.

1           **7. Rulemaking.** The Secretary of State shall adopt rules to implement this section.  
2 The rules must include, but are not limited to:

3           A. The required contents of the electronic application form required under subsection  
4 1 and the electronic affidavit and electronic witness and aide certifications required  
5 under subsection 4;

6           B. The period of time, including the number of days before an election and the times  
7 of day, during which a voter may submit an application to vote by absentee ballot by  
8 electronic means and, if that application is approved, cast a vote by electronic means;

9           C. Methods to verify the identity of an applicant under this section, to determine  
10 whether the applicant is registered to vote and, in the case of a primary election, to  
11 determine whether the applicant is enrolled and meets the requirements of section  
12 111-A;

13           D. Methods for notifying an applicant and the relevant municipal clerk that an  
14 application submitted under subsection 1 has been accepted or denied and, if denied,  
15 of the reason for the denial;

16           E. Minimum record-keeping requirements for municipal clerks, including but not  
17 limited to requiring that a municipal clerk print copies of all applications transmitted  
18 to the municipal clerk under subsection 3 and all electronic ballots, affidavits and  
19 certifications transmitted to the municipal clerk under subsection 5;

20           F. Procedures to prevent a voter from submitting more than one absentee ballot by  
21 electronic means and to prevent a voter from submitting an absentee ballot by  
22 electronic means after having submitted another ballot for the same election in person  
23 or by mail, except as provided in section 753-B, subsection 4 when the Secretary of  
24 State has replaced the relevant ballot to reflect the removal of a candidate's name, the  
25 addition of a candidate's name or the correction of an error;

26           G. Minimum design and security requirements for the electronic platform used for  
27 absentee voting under this section;

28           H. Procedures for the processing of absentee ballots, affidavits and certifications  
29 received by municipal clerks under subsection 5, which must be as consistent as  
30 possible with the procedures in this article for the processing of other absentee ballots;  
31 and

32           I. Procedures for counting absentee ballots submitted under subsection 5, which must  
33 be as consistent as possible with the procedures in this article for counting other  
34 absentee ballots.

35 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
36 chapter 375, subchapter 2-A.

37           **Sec. 7. 21-A MRSA §755**, as amended by PL 1991, c. 622, Pt. X, §9, is further  
38 amended to read:

39 **§755. Deadline**

40           ~~In~~ Except as provided in section 754-B, subsection 5, in order to be valid, an absentee  
41 ballot must be delivered to the municipal clerk at any time before the polls are closed.

