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DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 111

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ELECTIONS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter V of Chapter 20, Title 15 of the Delaware Code by making insertions as shown by
2 underlining and deletions as shown by strike through as follows:

3 § 2036. Deadline to register to vote: primary and general elections.

4 The last date to register to vote for any presidential primary, primary, special and general election shall be the
5 ~~fourth Saturday prior to the date of the election~~ day of that election. A person may register to vote at his or her polling
6 place from 7 am to 8 pm by submitting with that person's application a copy of a current and valid government issued photo
7 identification, or an original or legible copy of a current utility bill, bank statement, government check, paycheck or other
8 government document displaying the name and address of the person registering to vote. The term "current"
9 when used in this section as to forms of identification other than those that are government issued shall mean the
10 documents must be dated within 60 days prior to the registration date.

11 (1) Mail applications ~~postmarked~~ received on or before the deadline shall be considered to be on-time
12 and shall be ~~immediately~~ processed as soon as is practicable by the county office of the Department; and

13 (2) Applications taken by agencies in accordance with subchapter VII of this chapter and received by the
14 county offices of the Department on or before the deadline shall be considered on-time and shall be processed by the county
15 offices of the Department immediately as soon as is practicable upon receipt.

16 § 2037. ~~Deadline to register to vote: special elections.~~

17 ~~The last day to register to vote for any special election shall be 10 days prior to the date of the special election.~~

18 § 2038~~7~~. Registration applications received after a the deadline.

19 Registration applications received after a the deadline ~~and on or before the date of a primary or general election~~
20 shall be held and processed following that election.

21 § 2039~~8~~. Registration applications that update a registrant's record.

22 Notwithstanding any other provision in this title, the county offices of the Department may process registration
23 applications that change a registrant's address or name until the day ~~prior to a primary or general~~ of any presidential
24 primary, primary, special, or general election.

25 Section 2. Amend Chapter 61, Title 15 of the Delaware Code by making insertions as shown by underlining and
26 deletions as shown by strike through as follows:

27 § 6102 Definitions.

28 (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them
29 except where the context clearly indicates a different meaning:

30 (1) "State Election Commissioner" shall mean the State Election Commissioner or the Commissioner's
31 designee.

32 (2) "Disqualifying felony" shall mean that type of felony set forth in § 2, article V of the Constitution of
33 this State which permanently disqualifies any person convicted of such felony from voting.

34 ~~(3) "Financial obligations" includes such fees, fines, costs and restitution which a felony offender may be~~
35 ~~required to pay as part of the criminal sanctions imposed upon such offender.~~

36 ~~(4) "Full discharge" or "fully discharged" shall mean that a person convicted of a criminal offense has~~
37 ~~served the required sentence of imprisonment, parole, work release, early release, supervised custody, probation and~~
38 ~~community supervision, and has also paid all financial obligations required by the sentence.~~

39 (b) For the purposes of § 2 of article V of the Constitution of this State and for the purposes of this chapter, no
40 sentence shall be deemed to be expired until a person convicted of a criminal offense has served the required sentence of
41 imprisonment, parole, work release, early release, or supervised custody and community supervision ~~and has also paid all~~
42 ~~financial obligations and restitution required by the sentence.~~

43 § 6103 Application for registration: felony conviction reviews.

44 (a) The county ~~offices of the Department of Elections~~ Department of Elections shall not register any applicant
45 as a qualified voter until it has been determined that such applicant is lawfully eligible to vote. The county offices of the
46 Department shall, for each registration application, perform an electronic inquiry against the Criminal Justice Information
47 System (CJIS) and other data to determine if the applicant has been convicted of a felony. If the applicant has not been
48 convicted of a felony and is otherwise eligible to register to vote pursuant to the Delaware Constitution and this title, the
49 applicant shall be registered.

50 (b) If a review by the county ~~offices of the Department of Elections~~ Department of Elections shows that the
51 applicant has been convicted of a disqualifying felony, the registration application shall be denied and the applicant shall

52 not be permitted to register.

53 (c) If the applicant has been convicted of a felony which is not disqualifying and the applicant has been fully
54 discharged, the applicant shall be registered.~~but the felony conviction occurred within 5 years preceding the date of the~~
55 ~~application, then the registration application shall be denied.~~

56 (d) If the results of the ~~(CJIS)~~ CJIS inquiry cannot determine the eligibility of the applicant, the respective county
57 offices of the Department of Elections shall forward the application to the State Election Commissioner.

58 (e) This section shall not apply to registration applications submitted on the day of any presidential primary,
59 primary, special or general election pursuant to § 2036 of this Title. For such applications, upon submission of an affidavit
60 signed by the applicant for registration that he or she is not prohibited from voting pursuant to § 2, Article V of the
61 Constitution of this State and if the applicant is otherwise eligible to register to vote pursuant to the Delaware Constitution
62 and this title, the respective county office of the Department of Elections shall permit such applicant to vote. As soon as is
63 practicable after Election Day, the county office of the Department of Elections and the Election Commissioner shall
64 submit the application to the felony conviction review required under this Chapter. If the county office of the Department
65 of Elections or the State Election Commissioner determines that the applicant was not a qualified voter because of a felony
66 conviction, it shall refer the applicant to the Department of Justice for prosecution.

67 § 6104 Commissioner's review of application.

68 (a) ~~If the applicant has not been convicted of a felony within the 5 years preceding the date of the application,~~ The
69 State Election Commissioner shall request that both the Office of State Court Collections Enforcement (OSCCE) and the
70 Department of Correction separately conduct a review and data search of all records relating to the applicant.

71 (b) ~~Upon request by the State Election Commissioner, the OSCCE shall review its records to determine if the~~
72 ~~applicant has paid all financial obligations assessed against such applicant.~~ Upon request by the State Election
73 Commissioner, the Department of Correction shall review its records to determine if all sentences of imprisonment and
74 community supervision imposed upon the applicant have been fully discharged.

75 (c) Where it has been determined that the applicant was convicted of a felony which is not disqualifying, has fully
76 discharged all imposed sentences, and otherwise meets all constitutional and statutory requirements, the applicant shall be
77 permitted to register as a qualified voter. Each stage of the review process shall be completed within a reasonable time.

78 (d) Where the State Election Commissioner determines from information received ~~from OSCCE or~~ from the
79 Department of Correction ~~that there are financial obligations which have not been paid; or that not all sentences have been~~
80 ~~fully discharged; or that other questions or issues relating to the applicant's eligibility are still unresolved,~~ the
81 Commissioner shall deny the application for registration. Upon denial of an application under this section, the applicant

82 shall be notified by mail.

83 Section 2. This act shall become effective October 31, 2018.

SYNOPSIS

This bill provides for Election Day registration for presidential primary, primary, special, and general elections whereas currently the deadline is the fourth Saturday prior to the date of the election. Moreover, same day registration at polling places will be permitted with submission of valid government issued identification or other generally accepted proof of identification. This bill removes the requirement that a felon has paid all financial obligations, including fines and restitution, before his or her right to vote is restored. Finally, this bill provides that for same day registrations, an affidavit that a registrant is not a prohibited felon replaces an inquiry under CJIS to determine if an applicant has been convicted of a felony.

Author: Senator Henry