

SENATE

STATE OF MINNESOTA

NINETY-SECOND SESSION

S.F. No. 1422

| (SENATE AUTHORS: KIFFMEYER) |      |   |
|-----------------------------|------|---|
| DATE                        | D-PG | OFFICIAL STATUS   |
| 02/25/2021                  | 554  | Introduction and first reading<br>Referred to State Government Finance and Policy and Elections   |
| 03/04/2021                  | 672a | Comm report: To pass as amended and re-refer to Civil Law and Data Practices Policy   |
| 03/22/2021                  | 1084 | Comm report: To pass and re-referred to Judiciary and Public Safety Finance and Policy<br>Joint rule 2.03, referred to Rules and Administration |
| 05/17/2021                  |      | Joint rule 3.02, returned to Civil Law and Data Practices Policy  |

1.1

A bill for an act

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relating to elections; amending process for challenged voters; providing notice of

1.3

challenge and process to contest challenge; requiring use of challenged ballots in

1.4

certain circumstances; providing a penalty; making conforming changes;

1.5

appropriating money; amending Minnesota Statutes 2020, sections 201.061,

1.6

subdivision 4; 201.091, subdivision 4; 201.145, subdivision 1, by adding a

1.7

subdivision; 204C.10; 204C.12, subdivisions 2, 3; 204C.14, subdivision 1; Laws

1.8

2020, chapter 77, section 3, subdivision 1; by adding a subdivision; proposing

1.9

coding for new law in Minnesota Statutes, chapters 201; 204C.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11

Section 1. Minnesota Statutes 2020, section 201.061, subdivision 4, is amended to read:

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Subd. 4. **Registration by election judges; procedures.** Registration at the polling place

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on election day shall be conducted by the election judges. Before registering an individual

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to vote at the polling place, the election judge must review: (1) any list of absentee election

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day registrants provided by the county auditor or municipal clerk to see if the person has

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already voted by absentee ballot; and (2) the precinct list of challenged voters required under

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section 201.145, subdivision 1, paragraph (b). If the person's name appears on the absentee

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election day registrants list, the election judge must not allow the individual to register or

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to vote in the polling place. If the person's name appears on the challenged voter list, the

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election judge must allow the individual to register to vote, but the voter must not be allowed

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to sign the polling place roster or cast a ballot. Instead, a voter allowed to register despite

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appearing on the challenged voter list must be allowed to cast a challenged ballot pursuant

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to section 204C.136. The election judge who registers an individual at the polling place on

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election day shall not handle that voter's ballots at any time prior to the opening of the ballot

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box after the voting ends. Registration applications and forms for oaths shall be available

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at each polling place. If an individual who registers on election day proves residence by

oath of a registered voter, the form containing the oath shall be attached to the individual's registration application. Registration applications completed on election day shall be forwarded to the county auditor who shall add the name of each voter to the registration system unless the information forwarded is substantially deficient. A county auditor who finds an election day registration substantially deficient shall give written notice to the individual whose registration is found deficient. An election day registration shall not be found deficient solely because the individual who provided proof of residence was ineligible to do so.

Sec. 2. Minnesota Statutes 2020, section 201.091, subdivision 4, is amended to read:

Subd. 4. **Public information lists.** (a) The county auditor shall make available for inspection a public information list which must contain the name, address, year of birth, and voting history of each registered voter in the county. The list must indicate each voter whose status is challenged in the statewide voter registration system at the time the list was prepared. For each voter, the list must include the history of each change in status and the date that the change to that status was made. The list must also include individuals that were previously registered but were removed or made inactive in the statewide voter registration system and the reason for the removal or inactivation.

The list must not include the party choice of any voter who voted in a presidential nomination primary. The telephone number must be included on the list if provided by the voter. The public information list may also include information on voting districts.

(b) The county auditor may adopt reasonable rules governing access to the list. No individual inspecting the public information list shall tamper with or alter it in any manner. No individual who inspects the public information list or who acquires a list of registered voters prepared from the public information list may use any information contained in the list for purposes unrelated to elections, political activities, or law enforcement. The secretary of state may provide copies of the public information lists and other information from the statewide registration system for uses related to elections, political activities, or in response to a law enforcement inquiry from a public official concerning a failure to comply with any criminal statute or any state or local tax statute.

(c) Before inspecting the public information list or obtaining a list of voters or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities, or law enforcement. Requests to examine or obtain information from the public information

lists or the statewide registration system must be made and processed in the manner provided in the rules of the secretary of state.

(d) Upon receipt of a statement signed by the voter that withholding the voter's name from the public information list is required for the safety of the voter or the voter's family, the secretary of state and county auditor must withhold from the public information list the name of a registered voter.

**EFFECTIVE DATE.** This section is effective July 1, 2021, and applies to public information lists created on or after that date. Information on status changes or individuals removed from the statewide voter registration system collected prior to July 1, 2021, must not be included on a public information list.

Sec. 3. Minnesota Statutes 2020, section 201.145, subdivision 1, is amended to read:

Subdivision 1. **Report requirements.** (a) Reports required by this section must be submitted to the secretary of state as provided in this section. Reports from the state court administrator that are required under this section must be made on a daily basis, excluding weekends and holidays. Reports from the commissioner of corrections and the commissioner of public safety that are required under this section must be made to the secretary of state at least monthly. Reports must be submitted by electronic means. Reports from the commissioner of corrections and the commissioner of public safety must include a complete list of each individual under the reporting entity's jurisdiction and must not provide only the changes since the last report.

(b) No sooner than seven days before an election, the secretary of state must prepare and transmit to each county auditor a single list for each precinct in that county that includes each individual identified in a report required by this section. Each county auditor must ensure that at least one copy of the precinct list is delivered to the corresponding precinct polling place.

Sec. 4. Minnesota Statutes 2020, section 201.145, is amended by adding a subdivision to read:

**Subd. 6. Notice of challenge.** No later than seven days after changing the status of a registrant in the statewide voter registration system pursuant to this section, the county auditor or municipal clerk must mail a notice to the registrant. The notice must include, at a minimum, the following information:

(1) a statement that the voter's status was challenged or that a challenge was removed;

4.1 (2) the reason for the change;

4.2 (3) a copy of the information provided by the entity that was the basis for the change in  
4.3 status; and

4.4 (4) a description of the process to contest the change in status, as provided in section  
4.5 201.146.

4.6 **EFFECTIVE DATE.** This section is effective July 1, 2021, and applies to reports  
4.7 received by the secretary of state on or after that date. The notices required by this section  
4.8 must be sent to individuals who are challenged in the statewide voter registration system  
4.9 pursuant to this section on or after July 1, 2021.

4.10 Sec. 5. **[201.146] CONTESTING A CHALLENGE.**

4.11 (a) An individual whose status was challenged in the statewide voter registration system  
4.12 pursuant to section 201.145 has the right to contest the challenge as provided in this section.

4.13 (b) To contest the challenge, the individual must file a contest petition with the named  
4.14 entity. The petition must state the basis for the contest and provide any supporting  
4.15 documentation. The individual may request a review meeting as part of the petition. The  
4.16 meeting may be conducted by interactive video technology. The petition must be in a form  
4.17 prescribed by the secretary of state.

4.18 (c) No later than seven days after receiving the contest petition, the named entity must  
4.19 review the contest petition and any supporting documentation, as well as the data provided  
4.20 to the secretary of state. If the individual requested a review meeting, the named entity must  
4.21 schedule a meeting with the individual within 14 days after receiving the contest petition.

4.22 (d) After reviewing the required data, and after the review meeting if one occurred, the  
4.23 named entity must determine whether the data is accurate or should be changed. If the named  
4.24 entity determines that no change to the data is required, the named entity must notify the  
4.25 individual. If the named entity determines that the data must be changed, the named entity  
4.26 must promptly notify the individual and the secretary of state. Upon receiving the changed  
4.27 data from the named entity, the secretary of state must promptly remove the challenged  
4.28 status. If an individual disagrees with the decision of the named entity, the individual may  
4.29 appeal to the district court.

4.30 (e) For purposes of this section, "named entity" means the entity listed in the notice as  
4.31 required by section 201.145, subdivision 6.

**EFFECTIVE DATE.** This section is effective July 1, 2021, and applies to individuals who are challenged on or after that date.

Sec. 6. Minnesota Statutes 2020, section 204C.10, is amended to read:

**204C.10 POLLING PLACE ROSTER; VOTER SIGNATURE CERTIFICATE; VOTER RECEIPT.**

(a) An individual seeking to vote shall sign a polling place roster or voter signature certificate which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

(b) At the presidential nomination primary, the polling place roster must also state: "I am in general agreement with the principles of the party for whose candidate I intend to vote." This statement must appear separately from the statements required in paragraph (a). The felony penalty provided for in paragraph (a) does not apply to this paragraph.

(c) ~~A judge may,~~ Before the applicant signs the roster or voter signature certificate, an election judge must confirm the applicant's name, address, and date of birth. Unless the challenge is resolved pursuant to section 204C.12, subdivision 3, a voter whose registration status is listed as challenged must not be allowed to sign the polling place roster or sign a voter signature certificate, but the voter must be allowed to cast a challenged ballot as provided in section 204C.136.

(d) After the applicant signs the roster or voter signature certificate, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

(e) Whenever a challenged status appears on the polling place roster, an election judge must ensure that the challenge is concealed or hidden from the view of any voter other than the voter whose status is challenged.

6.1 Sec. 7. Minnesota Statutes 2020, section 204C.12, subdivision 2, is amended to read:

6.2 Subd. 2. **Statement of grounds; oath.** A challenger must be a resident of this state. The  
6.3 secretary of state shall prepare a form that challengers must complete and sign when making  
6.4 a challenge. The form must include space to state the ground for the challenge, a statement  
6.5 that the challenge is based on the challenger's personal knowledge, and a statement that the  
6.6 challenge is made under oath. The form must include a space for the challenger's printed  
6.7 name, signature, telephone number, and address.

6.8 ~~An election judge shall administer to the challenged individual the following oath:~~

6.9 ~~"Do you solemnly swear (or affirm) that you will fully and truly answer all questions~~  
6.10 ~~put to you concerning your eligibility to vote at this election?"~~

6.11 ~~The election judge shall then ask the challenged individual sufficient questions to test~~  
6.12 ~~that individual's residence and right to vote.~~

6.13 Sec. 8. Minnesota Statutes 2020, section 204C.12, subdivision 3, is amended to read:

6.14 Subd. 3. **Determination of residence.** ~~In determining the~~ (a) For an individual whose  
6.15 residency in the precinct is challenged, an election judge must administer to the challenged  
6.16 individual the following oath: "Do you solemnly swear (or affirm) that you will fully and  
6.17 truly answer all questions put to you concerning your residency in this precinct?" The  
6.18 election judge must then ask the challenged individual questions to determine the individual's  
6.19 legal residence of a challenged individual, in the precinct. The election judges shall must  
6.20 be governed by the principles contained in section 200.031. If the challenged individual's  
6.21 answers to the questions show ineligibility to vote in that the individual does not live in the  
6.22 precinct, the individual shall must not be allowed to vote. If the individual has marked  
6.23 ballots but not yet deposited them in the ballot boxes before the election judges determine  
6.24 ineligibility to vote in that precinct, the marked ballots shall must be placed unopened with  
6.25 the spoiled ballots. If the answers to the questions fail to show that the individual is not  
6.26 eligible to vote in that does not reside in the precinct and the challenge is not withdrawn,  
6.27 the election judges shall must verbally administer the oath on the voter certificate to the  
6.28 individual. After taking the oath and completing and signing the voter certificate, the  
6.29 challenged individual shall must be allowed to vote.

6.30 (b) The process described in this section must not be used for any purpose other than  
6.31 determining residency in the precinct.

7.1        **Sec. 9. [204C.136] CHALLENGED BALLOTS.**

7.2            **Subdivision 1. Casting challenged ballots.** (a) A voter whose registration status is  
7.3 challenged, and the challenge is not resolved pursuant to section 204C.12, is entitled to cast  
7.4 a challenged ballot.

7.5            (b) A voter seeking to cast a challenged ballot must sign a challenged ballot roster or a  
7.6 challenged voter signature certificate and complete a challenged ballot envelope. The  
7.7 envelope must contain a space for the voter to list the voter's name, address of residence,  
7.8 date of birth, voter identification number, and any other information prescribed by the  
7.9 secretary of state. The voter must also swear or affirm, in writing, that the voter is eligible  
7.10 to vote, has not voted previously in the same election, and meets the criteria for registering  
7.11 to vote in the precinct in which the voter appears.

7.12            (c) Once the voter has completed the challenged ballot envelope, the voter must be  
7.13 allowed to cast a challenged ballot. The challenged ballot must be in the same form as the  
7.14 official ballot available in the precinct on election day. A completed challenged ballot shall  
7.15 be sealed in a secrecy envelope. The secrecy envelope shall be sealed inside the voter's  
7.16 challenged ballot envelope and deposited by the voter in a secure, sealed challenged ballot  
7.17 box. Completed challenged ballots may not be combined with other voted ballots in the  
7.18 polling place.

7.19            (d) The form of the secrecy and challenged ballot envelopes shall be prescribed by the  
7.20 secretary of state. The challenged ballot envelope must be a color other than that provided  
7.21 for absentee ballot envelopes or provisional ballot envelopes and must be prominently  
7.22 labeled "Challenged Ballot Envelope."

7.23            (e) Challenged ballots and related documentation shall be delivered to and securely  
7.24 maintained by the county auditor or municipal clerk in the same manner as required for  
7.25 other election materials under sections 204C.27 and 204C.28.

7.26            **Subd. 2. Accepting or rejecting challenged ballot envelopes.** (a) Before the meeting  
7.27 of the canvassing board, the county auditor or municipal clerk must accept or reject each  
7.28 challenged ballot envelope. The county auditor or municipal clerk must review the  
7.29 information in the statewide voter registration system, required by section 201.145,  
7.30 subdivision 1, paragraph (b), for the date of the election. If the information shows that the  
7.31 voter was not challenged, or should not have been challenged on that date and was otherwise  
7.32 eligible to vote, that voter's challenged ballot envelope must be accepted. The county auditor  
7.33 or municipal clerk must mark the challenged ballot envelope "Accepted" and initial or sign  
7.34 the envelope below the word "Accepted." If a challenged ballot envelope is not accepted,

the county auditor or municipal clerk must mark the challenged ballot envelope "Rejected," initial or sign it below the word "Rejected," and list the reason for the rejection on the envelope. The county auditor or municipal clerk must promptly record in the statewide voter registration system that a voter's challenged ballot envelope has been accepted or rejected.

(b) The county auditor or municipal clerk must mail the voter a written notice of challenged ballot envelope rejection between six and ten weeks following the election. The notice must include the reason for rejection and the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information.

(c) A challenged ballot envelope marked "Rejected" may not be opened or subject to further review except in an election contest filed pursuant to chapter 209.

Subd. 3. **Challenged ballots; reconciliation.** Prior to counting any challenged ballots in the final vote totals from a precinct, the county auditor or municipal clerk must verify that the number of signatures appearing on the challenged ballot roster or challenged voter signature certificates from that precinct is equal to or greater than the number of challenged ballots submitted by voters in the precinct on election day. Any discrepancy must be resolved before the challenged ballots from the precinct may be counted. Excess challenged ballots to be counted must be randomly withdrawn in the manner required by section 204C.20, subdivision 2.

Subd. 4. **Counting challenged ballots.** Accepted challenged ballot envelopes must be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be spoiled and must not be counted.

Sec. 10. Minnesota Statutes 2020, section 204C.14, subdivision 1, is amended to read:

Subdivision 1. **Violations; penalty.** (a) No individual shall intentionally:

~~(a)~~ (1) misrepresent the individual's identity in applying for a ballot, depositing a ballot in a ballot box, requesting a challenged ballot or requesting that a challenged ballot be counted, or attempting to vote by means of a voting machine or electronic voting system;

~~(b)~~ (2) vote more than once at the same election;

~~(c)~~ (3) put a ballot in a ballot box for any illegal purpose;

~~(d)~~ (4) give more than one ballot of the same kind to an election judge to be placed in a ballot box;



~~(e) (5)~~ aid, abet, counsel or procure another to go into any precinct for the purpose of voting in that precinct, knowing that the other individual is not eligible to vote in that precinct; ~~or~~

~~(f) (6)~~ aid, abet, counsel or procure another to do any act in violation of this section; or  
(7) challenge a voter's eligibility to vote knowing that the challenge is not meritorious  
or acting in reckless disregard of whether the challenge is meritorious.

(b) A violation of this section is a felony.

Sec. 11. Laws 2020, chapter 77, section 3, subdivision 1, is amended to read:

Subdivision 1. **Federal funds appropriation.** \$7,389,506 in fiscal year 2020 is appropriated from the Help America Vote Act (HAVA) account established in Minnesota Statutes, section 5.30, to the secretary of state. Of this appropriation, \$..... is for the purposes authorized by subdivision 4 and \$..... is for the purposes authorized in subdivision 4a.

Sec. 12. Laws 2020, chapter 77, section 3, is amended by adding a subdivision to read:

Subd. 4a. **Grants.** Amounts appropriated in this section must be used for the purposes of making grants to political subdivisions for the purposes of implementing challenged ballots as required by Minnesota Statutes, section 204C.136.

Sec. 13. **EFFECTIVE DATE.**

This act is effective on January 1, 2022, and applies to elections held on or after that date.