

# SENATE BILL REPORT

## E2SHB 2595

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As of February 16, 2018

**Title:** An act relating to increasing opportunities for citizens to participate in elections by streamlining procedures in order to automatically register citizens to vote.

**Brief Description:** Concerning procedures in order to automatically register citizens to vote.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Hudgins, Dolan, Appleton, Gregerson, Pellicciotti, Jinkins, Senn, Wylie, Peterson, Sawyer, Fitzgibbon, Valdez, Stanford, Pollet, Doglio, Goodman, Ormsby, Macri, Riccelli, Robinson and Stonier; by request of Governor Inslee).

**Brief History:** Passed House: 2/12/18, 50-48.

**Committee Activity:** State Government, Tribal Relations & Elections: 2/16/18.

### Brief Summary of Bill

- Provides for an automatic voter registration procedure for enhanced driver's license and identicaid applicants.
- Requires that the Health Benefit Exchange (HBE) automatically provide voter registration information to the Secretary of State (SOS) for persons who consent to such transfer.
- Requires the HBE to report on the feasibility of implementing automatic voter registration.
- Requires that the SOS study the feasibility of providing automatic voter registration for recently naturalized citizen state residents and for voter preregistration at birth.

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### SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

**Staff:** Samuel Brown (786-7470)

**Background:** National Voter Registration Act. Among the provisions of the National Voter Registration Act of 1993 (NVRA), popularly known as Motor Voter, is a requirement for

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states to provide opportunities for voter registration when citizens apply for a new or renew an existing driver's license or identification card.

In Washington, driver's licensing agents ask driver's license or identicard applicants whether the applicant wants to register to vote or update an existing voter registration. An applicant for a standard driver's license or identicard is not asked to disclose the applicant citizenship or legal residency status unless the applicant chooses to register to vote. If an applicant registers to vote, the Department of Licensing (DOL) transmits that voter's registration information to the SOS.

The NVRA also requires that certain designated social services agencies perform voter registration activities. In addition to DOL, the Governor has designated the following as voter registration assistance agencies:

- the Department of Health (DOH);
- the Department of Services for the Blind;
- the Department of Social and Health Services;
- the HBE; and
- the Health Care Authority.

Since 2015, nine states and the District of Columbia have enacted laws requiring the automatic voter registration of eligible applicants for services at state agencies, predominantly at motor vehicle departments, unless the applicant opts out.

Voter Registration Database. The SOS maintains a centralized voter registration database containing the name and registration information of every legally registered voter in the state. Registration information shared with the SOS through the DOL database is validated and added to this official list of registered voters. The electronic signature on a drivers' license, identicard application, or renewal may serve as the electronic signature for voter registration purposes.

Crimes and Penalties. Voter violations, including knowingly registering to vote when unqualified, providing false voter registration information, and making a false declaration about voter qualifications, are punishable as Class C felonies.

A person who knowingly tampers with a registration form or intentionally fails to return another person's registration form is guilty of a gross misdemeanor. This does not apply to the voter who completed the form or to a county auditor who is acting as authorized by law.

The Address Confidentiality Program (ACP). The ACP, administered by the SOS, keeps secret the addresses of certain criminal justice employees and victims of domestic violence, sexual assault, trafficking, or stalking. Program participants may register to vote without creating a public record.

Birth Certificates. State laws regarding birth certificates and other vital records are administered by DOH, and establish a standard birth certificate form, use the requirements for completing and forwarding birth certificate information, and requirements for issuing new or amended birth certificates.

**Summary of Bill:** Automatic Voter Registration With Enhanced Identification. A person who is receiving a new or renewing an existing enhanced driver's license or identicaid is automatically registered to vote or may automatically update an existing registration if the applicant's record indicates that the applicant meets voter registration requirements, unless the applicant opts out.

DOL must provide the voter registration information for every person who does not decline to be automatically registered to vote or update an existing registration to SOS. For every complete application, the county auditor must mail the applicant an acknowledgement notice and voter registration card within 60 days. For every incomplete application, the auditor shall promptly mail the applicant a verification notice and register the person if missing information is supplied. DOL must immediately notify the SOS and county auditor if the enhanced driver's license or identicaid is cancelled due to the failure of a licensee who was automatically registered to vote to give correct information.

DOL may not share data used by the SOS to verify voters with federal agencies or state agencies other than SOS.

Automatic Voter Registration Information Transmission at the HBE. Contingent on approval from the Centers for Medicare and Medicaid Services for any process changes, the HBE must transmit the name, address, and date of birth of each consenting applicant who is a citizen and at least 18 years old to the SOS for the purpose of the applicant being registered to vote.

The SOS must first review the information to determine whether the person is already registered to vote, and then submit the information to the appropriate county auditor, who notifies the person that the person is registered to vote. If the SOS receives the information within eight days of an election, the SOS must wait until after the election to provide the registration information to the county auditor.

The HBE must consult with the SOS to ensure compliance with federal and state voting registration and privacy laws, as well as procedures for ensuring the SOS is able to obtain a person's digital signature. The HBE also must consult with the Health Care Authority to determine if implementation of the data sharing requirements would require approval from the Centers for Medicare and Medicaid Services.

HBE must study the feasibility of implementing automatic voter registration and report to the Governor and appropriate legislative committees by December 1, 2020.

Automatic Voter Registration at Birth and for Naturalized Citizens. The SOS must conduct a study and, by December 1, 2019, propose recommendations to the Legislature, regarding the creation of automatic voter registration processes at birth and for recently naturalized citizens who reside in Washington.

Crimes and Penalties. If a person does not know the person is ineligible to vote and becomes registered through automatic processes, or subsequently unknowingly attempts to vote or votes illegally as a result of being registered automatically, that person is presumed to have acted with official authorization and is not guilty of a Class C felony. The voter registration

or record of vote must be removed from the voter registration database for any ineligible person who became registered to vote through the DOL or HBE processes.

If an ineligible person is automatically registered to vote, the SOS must conduct an investigation to determine the cause, and report findings to the Governor and Legislature. Records from the investigation must be destroyed after the investigation and are not subject to public disclosure.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: Every eligible voter should be able to fully participate in our democracy, and this furthers that goal. This will make our democracy more accessible. We support the more expansive language in the Senate bill. County auditors see this as essential to making same-day voter registration work, but would like to make the bill effective upon implementation of the new voter registration database in December 2019. Other states that have implemented automatic voter registration have seen increases in turnout.

OTHER: We support most aspects of the bill, but would prefer to see all social service agencies represented. We also have concerns about language stating that inadvertent false registrants committed an authorized act and about studying automatic voter preregistration of all recorded births.

**Persons Testifying:** PRO: Alex Hur, Washington Voting Justice Coalition; Toby Guevin, Thurston County Auditor's Office; Vicky Dalton, Spokane County Auditor; RaShelle Davis, Governor's Office.

OTHER: David Elliott, Office of the Secretary of State.

**Persons Signed In To Testify But Not Testifying:** No one.