

HB 535 - AS INTRODUCED

2021 SESSION

21-0722

11/04

HOUSE BILL **535**

AN ACT relative to the qualified voter affidavit.

SPONSORS: Rep. Berry, Hills. 44

COMMITTEE: Election Law

ANALYSIS

This bill repeals the qualified voter affidavit and sworn statements on registration forms for use in election day voter registration.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to the qualified voter affidavit.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Voter Registration; Form. Amend RSA 654:7, IV(c) to read as follows:

2 (c) The secretary of state shall prescribe the form of the voter registration form to be
3 used only for voter registrations, transfers, or updates starting 30 days before each election and at
4 the polling place on election day, which shall be in substantially the following form:

5 ___ NEW REGISTRATION I am not registered to vote in New Hampshire

6 ___ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a
7 new town or ward in New Hampshire

8 ___ NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have
9 changed my name/address

10 Date registration form is submitted _____

11 Date applicant moved to the address listed below as the voter's domicile _____

12 VOTER REGISTRATION FORM

13 FOR USE STARTING 30 DAYS BEFORE AN ELECTION AND AT THE POLLING PLACE ON
14 ELECTION DAY

15 (Please print or type)

16 1. Name _____

17 Last (suffix) First Full Middle Name

18 2. Domicile Address _____

19 Street Ward Number

20 _____

21 Town or City Zip Code

22 3. Mailing Address if different than in 2 _____

23 Street

24 _____

25 Town or City Zip Code

26 4. Place and Date of Birth _____

27 Town or City State

28 Date _____

29 5. Are you a citizen of the United States? Yes ___ No ___

30 If a naturalized citizen, give name of court where and date when naturalized

31 _____

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6. Place last registered to vote _____

Street Ward Number

I am not currently registered to vote elsewhere (initial here _____), or I request that my name be removed as a registered voter in _____ (fill in your address where previously registered, street, city/town, state, and zip code)

7. Name under which previously registered, if different from above

8. Party Affiliation (if any) _____

9. Driver's License Number _____ State _____

If you do not have a valid driver's license, provide the last four digits of your social security number _____

My name is _____. I am today registering to vote in the city/town of _____, New Hampshire. If a city, ward number _____.

I understand that to vote in this ward/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I understand that to make the address I have entered above my domicile for voting I must have an intent to make this the one place from which I participate in democratic self-government and must have acted to carry out that intent.

~~[I understand that if I have documentary evidence of my intent to be domiciled at this address when registering to vote, I must either present it at the time of registration or I must place my initials next to the following paragraph and mail a copy or present the document at the town or city clerk's office within 10 days following the election (30 days in towns where the clerk's office is open fewer than 20 hours weekly).~~

~~_____ By placing my initials next to this paragraph, I am acknowledging that I have not presented evidence of actions carrying out my intent to be domiciled at this address, that I understand that I must mail or personally present to the clerk's office evidence of actions carrying out my intent within 10 days following the election (or 30 days in towns where the clerk's office is open fewer than 20 hours weekly), and that I have received the document produced by the secretary~~

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of state that describes the items that may be used as evidence of a verifiable action that establishes domicile.

~~— Failing to report and provide evidence of a verifiable action will prompt official mail to be sent to your domicile address by the secretary of state to verify the validity of your claim to a voting domicile at this address.~~

~~— I understand that if I do not have any documentary evidence of my intent to be domiciled at this address, I must place my initials next to the following paragraph:~~

~~— By placing my initials next to this paragraph, I am acknowledging that I am aware of no documentary evidence of actions carrying out my intent to be domiciled at this address, that I will not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be sending mail to the address on this form or taking other actions to verify my domicile at this address.]~~

I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

Date Signature of Applicant

~~[If this form is used in place of proof of identity, age, or citizenship, I hereby swear that such information is true and accurate to the best of my knowledge.~~

~~— This form was executed for purposes of proving (applicant shall circle yes or no and initial each item):~~

Identity yes/no _____

_____(initials)

Citizenship yes/no _____

_____(initials)

Age yes/no _____

_____(initials)

Applicant Election Official

~~Notary Public/Justice of the Peace/Official Authorized by RSA 659:30]~~

In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000. In accordance with RSA 659:34-a

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1 voting in more than one state in the same election is a class B felony with a maximum sentence of
2 imprisonment not to exceed 7 years and a fine not to exceed \$4,000.

3 ~~[V. The secretary of state shall prepare and distribute an addendum to the voter registration~~
4 ~~form used under subparagraph IV(c) to be distributed to those registrants who register within 30~~
5 ~~days before the election or on election day and who do not provide proof of domicile or a verifiable~~
6 ~~action to demonstrate domicile. The "verifiable action of domicile" document shall provide notice of~~
7 ~~the requirements that registrants must furnish documentary evidence of domicile and shall be in~~
8 ~~substantially the following form:~~

9 Verifiable Action of Domicile

10 ~~— As a newly registered voter, you have received this document because you did not provide proof~~
11 ~~of domicile when you registered to vote. RSA 654:2, IV requires you to provide evidence that you~~
12 ~~have taken a verifiable act to establish domicile.~~

13 ~~— The following checklist shall be used as a guide for what you may use as evidence and shall be~~
14 ~~submitted to the town or city clerk along with documentation that you are required to provide. Only~~
15 ~~one item on the list is required to demonstrate a verifiable act.~~

16 ~~— To establish that you have engaged in a verifiable act establishing domicile, provide evidence~~
17 ~~that you have done at least one of the following:~~

18 ~~— established residency, as set forth in RSA 654:1, I a, at an institution of learning at the~~
19 ~~address on the voter registration form~~

20 ~~— rented or leased an abode, for a period of more than 30 days, to include time directly prior to~~
21 ~~an election day at the address listed on the voter registration form~~

22 ~~— purchased an abode at the address listed on the voter registration form~~

23 ~~— obtained a New Hampshire resident motor vehicle registration, driver's license, or~~
24 ~~identification card issued under RSA 260:21, RSA 260:21 a, or RSA 260:21 b listing the address on~~
25 ~~the voter registration form~~

26 ~~— enrolled a dependent minor child in a publicly funded elementary or secondary school which~~
27 ~~serves the town or ward of the address where the registrant resides, as listed on the voter~~
28 ~~registration form~~

29 ~~— Identified the address on the voter registration form as your physical residence address on:~~

30 ~~— state or federal tax forms~~

31 ~~— other government issued forms or identification. — Describe form of identification:~~

32 ~~=====~~

33 ~~— provided the address on the voter registration form to the United States Post Office as your~~
34 ~~permanent address, provided it is not a postal service or commercial post office box, where mail is~~
35 ~~delivered to your home. This can be by listing the address on the voter registration form as your new~~
36 ~~address on a Postal Service permanent change of address form and providing a copy of the receipt, or~~
37 ~~an online emailed receipt~~

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~~_____ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the address on the voter registration form. List services obtained: _____~~

~~_____ arranged for a homeless shelter or similar service provider to receive United States mail on your behalf. Enter name of the shelter or provider: _____~~

~~_____ describe what other verifiable action or actions you have taken to make the address listed on your voter registration form your one voting domicile: _____~~

~~_____ If you have no other proof of a verifiable act establishing domicile, and your domicile is at an abode rented, leased, or purchased by another and your name is not listed on the rental agreement, lease, or deed, you are required to provide a written statement, signed under penalty of voting fraud if false information is provided, from a person who is listed on such document, or other reasonable proof of ownership or control of the property, attesting that you reside at that address, signed by that person or his or her agent who manages the property.~~

~~_____ This verifiable action of domicile form, along with your written statement or other documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in person, with 10 days, or within 30 days if the clerk's office is open fewer than 20 hours weekly.~~

~~_____ Name _____~~

~~_____ Last (suffix) _____ First _____ Full Middle Name _____~~

~~_____ Domicile Address _____~~

~~_____ Street _____ Ward Number _____~~

~~_____ _____~~

~~_____ Town or City _____ Zip Code _____~~

~~_____ _____~~

~~_____ Date _____ Signature of Applicant _____~~

~~_____ This document was received by the clerk, who examined and returned it to the applicant after making a copy of the evidence of verifiable action, said copy to be attached to the verifiable action of domicile form.~~

~~_____ _____~~

~~_____ Date _____ Signature of Clerk _____~~

~~_____ The clerk shall forward the completed form and attachment or attachments to the supervisors of the checklist as soon as possible, but not later than their next meeting. The supervisors of the checklist shall attach the form and attachments to the voter registration form.]~~

~~2 General Voter Registration; Determining Qualifications of Applicant; Qualified Voter Affidavit. Amend RSA 654:12, I(a) and (b) to read as follows:~~

~~I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories:~~

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(a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall accept from the applicant any one of the following as proof of citizenship: the applicant's birth certificate, passport, naturalization papers if the applicant is a naturalized citizen, ~~[a qualified voter affidavit, a sworn statement on the voter registration form used starting 30 days before an election and on election day,]~~ or any other reasonable documentation which indicates the applicant is a United States citizen. ~~[The qualified voter affidavit shall be in the following form, and shall be retained in accordance with RSA 33-A:3 a:~~

Date: _____

~~QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)~~

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

Domicile Address: _____

Mailing Address (if different): _____

Telephone number (requested but optional) _____

Email address (requested but optional) _____

~~— I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.~~

(Signature of applicant)

~~— In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.~~

~~— On the date shown above, before me, _____ (print name of notary public, justice of the peace, election officer), appeared _____ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.~~

~~— This affidavit was executed for purposes of proving (check all that apply):~~

~~— [] Identity~~

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1 ~~— [] Citizenship~~

2 ~~— [] Age~~

3 ~~_____~~
4 ~~— Notary Public/Justice of the Peace/Official Authorized by RSA 659:30]~~

5 (b) AGE. Any reasonable documentation indicating the applicant will be 18 years of age
6 or older at the next election~~[- or, if the applicant does not have reasonable documentation in his or~~
7 ~~her possession at the place and time of voter registration, a qualified voter affidavit, which shall be~~
8 ~~retained in accordance with RSA 33 A:3 a, or a sworn statement on the voter registration form used~~
9 ~~starting 30 days before an election and on election day].~~

10 3 General Voter Registration; Qualified Voter Affidavit. Amend RSA 654:12, III to read as
11 follows:

12 III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration
13 as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship,
14 and domicile relate to the applicant. A person who has in his or her immediate possession a photo
15 identification approved for use by paragraph II must present that identification when applying for
16 registration. ~~[A person who does not have an approved photo identification with him or her may~~
17 ~~establish identity through completion of the qualified voter affidavit, which shall be retained in~~
18 ~~accordance with RSA 33 A:3 a, or a sworn statement on the voter registration form used starting 30~~
19 ~~days before an election and on election day.]~~ Residents of a nursing home or similar facility may
20 prove their identity through verification of identity by the administrator of the facility or by his or
21 her designee. For the purposes of this section, the application of a person whose identity has been
22 verified by an official of a nursing home or similar facility shall be treated in the same manner as the
23 application of a person who proved his or her identity with a photo identification.

24 4 Determining Qualifications of Applicants; Sworn Statements. Amend RSA 654:12, V(a) to
25 read as follows:

26 (a) ~~[The election official approving the application for registration as voter of a person~~
27 ~~who does not present an approved form of photo identification as proof of identity when registering,~~
28 ~~shall mark the voter registration form to indicate that no photo identification was presented and~~
29 ~~shall inform the person that, if he or she is a first-time election day registrant in New Hampshire, he~~
30 ~~or she will receive a letter of identity verification.]~~ The person entering the voter information into
31 the centralized voter registration database shall determine if the person is listed in the system as
32 having been previously registered in the town or ward reported by the applicant on the voter
33 registration form. If the person is a new registrant who has not been previously registered anywhere
34 in New Hampshire or if the centralized voter registration database does not confirm a previous
35 registration claimed on the voter registration form, the election official shall cause the record created
36 in the centralized voter registration database to indicate that the person is a new applicant in New
37 Hampshire ~~[and that no photo identification was presented]~~. When municipalities enter information

on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire ~~[and who also register without presenting an approved photo identification]~~ shall be entered first. ~~[The person entering the voter information of election day residents into the centralized voter registration database shall cause the records to indicate if the voter executed a sworn statement on the voter registration form used starting 30 days before an election and on election day.]~~

5 Voter Checklists; Right to Know Exemption. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, ~~[qualified voter affidavits,]~~ domicile affidavits, affidavit of religious exemption, application for absentee ballot, and contact information, including but not limited to a phone number and email address, provided to the secretary of state or other election officials for the purpose of receiving information about elections shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. ~~[Notwithstanding the foregoing, qualified voter affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter affidavit.]~~ Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, ~~[qualified voter affidavits,]~~ affidavits of religious exemption, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

6 Election Procedure; Challenges; Affidavit. Amend RSA 659:30 to read as follows:

659:30 Affidavit. The affidavit of a challenged voter, an asserting a challenge form, ~~[a qualified voter affidavit,]~~ or any other affidavit required by the election statutes may be sworn before any person authorized by law to administer oaths or before any election officer.

7 Wrongful Voting; Penalties for Voter Fraud. Amend RSA 659:34, I(a) to read as follows:

(a) When registering to vote; when obtaining an official ballot; when casting a vote by official ballot; or when applying for a photo identification card for voting purposes, purposely or knowingly makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, [a

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1 ~~qualified voter affidavit,~~ a challenged voter affidavit, an affidavit of religious exemption, an
2 identification card voucher, or an absentee registration affidavit containing false material
3 information regarding his or her qualifications as a voter;

4 8 Preservation of Absentee Voting Materials. Amend RSA 659:101 to read as follows:

5 659:101 Preservation of Absentee Voting Materials and Election Day Affidavits. The absentee
6 ballot affidavits and application forms processed by the moderator as provided in RSA 659:50, the
7 absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53, ~~[and the~~
8 ~~qualified voter affidavits as provided in RSA 654:12]~~ and any other documentary proof of
9 qualifications retained by the town or city clerk, the supervisors of the checklist, or other election
10 official shall be preserved in accordance with RSA 33-A:3-a. ~~[Qualified voter and voter registration~~
11 ~~affidavits shall be retained for the period set forth in RSA 33-A:3-a, and]~~ Other materials may be
12 destroyed after the election is settled and all appeals have expired or one year after the election,
13 whichever is longer.

14 9 Repeal. The following are repealed:

15 I. RSA 33-A:3-a, CXLI(e), relative to the record retention schedule for qualified voter
16 affidavits, is repealed.

17 II. RSA 654:7, III, relative to voter registration affidavits.

18
19 III. RSA 654:12, I(c)(2), relative to registering without documentation demonstrating
20 identity.

21 IV. RSA 654:12, II(b), relative to proving identity to take oaths of applicants swearing to
22 qualified voter, domicile, or election day affidavits.

23 V. RSA 654:12, V(d) and (e), relative to inquiry into persons executing sworn statements on
24 voter registration forms.

25 10 Effective Date. This act shall take effect 60 days after its passage.