

CHAPTER 319
SB 271 – FINAL VERSION

02/06/14 0318s
14May2014... 1561h
06/04/14 1977CofC
06/04/14 2030EBA

2014 SESSION

14-2710
03/06

SENATE BILL **271**

AN ACT relative to the retention of voter affidavits and identity verification, the withdrawal of a recount request, the processing of absentee ballots, and the filing period for state representative special elections.

SPONSORS: Sen. Boutin, Dist 16; Rep. Fields, Belk 4

COMMITTEE: Public and Municipal Affairs

AMENDED ANALYSIS

This bill:

I. Requires that all voter challenge affidavits be retained for at least 22 months after the election.

II. Allows voters the option of providing a telephone number and email address on a qualified voter affidavit, domicile affidavit, or challenged voter affidavit.

III. Modifies when identity verification letters are to be mailed.

IV. Provides for withdrawal of a recount request and refund of fees paid.

V. Clarifies additional forms of identification for voters.

VI. Eliminates certain restrictions relating to when absentee ballots may be processed.

VII. Clarifies the filing period for state representative special elections.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the retention of voter affidavits and identity verification, the withdrawal of a recount request, the processing of absentee ballots, and the filing period for state representative special elections.

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

1 319:1 Retention Schedule; Challenge Affidavits. Amend RSA 33-A:3-a, XXXVIII to read as
2 follows:

3 XXXVIII. Elections-challenge affidavits by the town clerk:

4 ~~[(a) Federal elections:]~~ until the contest is settled and all appeals have expired or 22
5 months after the election, whichever is longer.

6 ~~[(b) Non-federal elections: until the contest is settled and all appeals have expired or 60~~
7 ~~days after the election, whichever is longer.]~~

8 319:2 Qualified Voter Affidavit. Amend RSA 654:12, I(a) to read as follows:

9 (a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall
10 accept from the applicant any one of the following as proof of citizenship: the applicant's birth
11 certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter
12 affidavit, or any other reasonable documentation which indicates the applicant is a United States
13 citizen. The qualified voter affidavit shall be in the following form, and shall be retained in
14 accordance with RSA 33-A:3-a:

15 Date: _____

16 QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

17 Name: _____

18 Name at birth if different: _____

19 Place of birth: _____

20 Date of birth: _____

21 Date and Place of Naturalization: _____

22 Domicile Address: _____

23 Mailing Address (if different): _____

24 **Telephone number (requested but optional)** _____

25 **Email address (requested but optional)** _____

26 I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in
27 possession of some or all of the documents necessary to prove my identity, citizenship, and age and

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1 that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this
2 town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or
3 will be at the next election, and that to the best of my knowledge and belief the information above is
4 true and correct.

5 _____
6 (Signature of applicant)

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

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

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

- 17 Identity
18 Citizenship
19 Age

20 _____
21 Notary Public/Justice of the Peace/
22 Official Authorized by RSA 659:30

23 319:3 Domicile Affidavit. Amend RSA 654:12, I(c) to read as follows:

24 (c) DOMICILE. Any reasonable documentation which indicates that the applicant has a
25 domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in
26 which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or
27 her possession at the place and time of voter registration, an affidavit in the following form, which
28 shall be retained in accordance with RSA 33-A:3-a:

DOMICILE AFFIDAVIT

Date: _____

31 Name: _____

32 Current Domicile Address: _____

Street Ward Number

Town or City Zip Code

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1 Current Mailing Address (if different): _____

2 Street Ward Number

3 _____

4 Town or City Zip Code

5 **Telephone number (requested but optional)** _____

6 **Email address (requested but optional)** _____

7 Date when current domicile was established: Month: ____ Year: ____

8 Place and date of birth: _____

9 Address of last previous domicile: _____

10 Street Ward Number

11 _____

12 Town or City Zip Code

13 I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not
14 currently in possession of necessary documents to prove my domicile and that my established
15 domicile is at the current domicile address I have entered above. I understand that a person can
16 claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to
17 which upon temporary absence, a person has the intention of returning. By registering or voting
18 today, I am acknowledging that I am not domiciled or voting in any other city/town, and that to the
19 best of my knowledge and belief the information above is true and correct.

20 _____

21 (Signature of applicant)

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

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

31 _____

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

33 319:4 Identity Verification. Amend RSA 654:12, V(b) to read as follows:

34 (b) The secretary of state shall cause a letter of identity verification to be mailed by first
35 class mail to each voter identified at any election as a first-time election day registrant in
36 New Hampshire who also did not verify his or her identity with an approved photo identification.

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1 The letter shall be mailed *by January 10 in every odd-numbered year in the case of persons*
2 *registering at a state primary or general election, or* within [60] 90 days after [the] *any other*
3 *election*[, ~~except that if the election is a state primary election, the letter shall be mailed 60 days~~
4 ~~after the general election, and if the election is a regularly scheduled municipal election, the letter~~
5 ~~shall be mailed by the July 1 or January 1 next following the election]. The secretary of state shall~~
6 mark the envelope with instructions to the United States Post Office not to forward the letter and to
7 provide address correction information. The letter shall notify the person that a person who was
8 unable to present photo identification registered or registered and voted using his or her name and
9 address and instruct the person to return the letter within 45 days with a written confirmation that
10 the person registered and voted or to contact the attorney general immediately if he or she did not
11 register and vote. Any voter under a protective order pursuant to RSA 173-B, and whose name does
12 not appear on the checklist as provided under RSA 654:25, shall not be subject to the provisions of
13 paragraph V.

14 319:5 Identity Verification. Amend RSA 659:13, IV(a) to read as follows:

15 IV.(a) The secretary of state shall cause a letter of identity verification to be mailed by first
16 class mail to each voter who executed a challenged voter affidavit in accordance with paragraph I.
17 The letter shall be mailed *by January 10 in every odd-numbered year in the case of persons*
18 *executing challenged voter affidavits at a state primary or general election, or* within [60]
19 *90* days after [the] *any other* election[, ~~except that if the election is a state primary election, the~~
20 ~~letter shall be mailed 60 days after the general election, and if the election is a regularly scheduled~~
21 ~~municipal election, the letter shall be mailed by the July 1 or January 1 next following the election].~~
22 The secretary of state shall mark the envelope with instructions to the United States Post Office not
23 to forward the letter and to provide address correction information. The letter shall notify the
24 person that a person who did not present valid photo identification voted using his or her name and
25 address and instruct the person to return the letter within 90 days with a written confirmation that
26 the person voted or to contact the attorney general immediately if he or she did not vote. The letter
27 shall also inform the person of the procedure for obtaining a free nondriver's picture identification
28 card for voting purposes.

29 319:6 Identity Verification; Prospective Version. Amend RSA 659:13, IV(a) to read as follows:

30 IV.(a) The secretary of state shall cause a letter of identity verification to be mailed by first
31 class mail to each voter who executed a challenged voter affidavit or affidavit of religious exemption
32 in accordance with paragraph I, unless the same person is sent letter of identity verification
33 pursuant to RSA 654:12, V(b). The letter shall be mailed *by January 10 in every odd-numbered*
34 *year in the case of persons executing challenged voter affidavits or affidavits of religious*
35 *exemption at a state primary or general election, or* within [60] 90 days after [the] *any other*
36 *election*[, ~~except that if the election is a state primary election, the letter shall be mailed 60 days~~

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1 ~~after the general election, and if the election is a regularly scheduled municipal election, the letter~~
2 ~~shall be mailed by the July 1 or January 1 next following the election].~~ The secretary of state shall
3 mark the envelope with instructions to the United States Post Office not to forward the letter and to
4 provide address correction information. The letter shall notify the person that a person who did not
5 present valid photo identification voted using his or her name and address and instruct the person to
6 return the letter within 30 days with a written confirmation that the person voted or to contact the
7 attorney general immediately if he or she did not vote. The letter shall also inform the person of the
8 procedure for obtaining a free nondriver's picture identification card for voting purposes.

9 319:7 Challenged Voter Affidavit. Amend RSA 659:27, II to read as follows:

10 II. Upon receipt of a written challenge, the moderator shall determine if the challenge to the
11 ballot is well grounded. If the moderator determines that the challenge is well grounded, the
12 moderator shall not receive the vote of the person so challenged until the person signs and gives to
13 the moderator an affidavit in the following form: I, _____, do solemnly swear (or
14 affirm) under penalties of voter fraud, that I am the identical person whom I represent myself to be,
15 that I am a duly qualified voter of this town (or ward), and have a legal domicile therein. ***My***
16 ***telephone number (requested but optional) is _____, and my email address***
17 ***(requested but optional) is _____.*** If the moderator determines that the challenge is not
18 well grounded, the moderator shall permit the voter to proceed to vote.

19 319:8 Qualified Voter Affidavit. Amend RSA 654:12, I(a) to read as follows:

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

26 Date: _____

27 **QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)**

28 Name: _____

29 Name at birth if different: _____

30 Place of birth: _____

31 Date of birth: _____

32 Date and Place of Naturalization: _____

33 Domicile Address: _____

34 Mailing Address (if different): _____

35 ***Telephone number (requested but optional) _____***

36 ***Email address (requested but optional) _____***

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

7 _____

8 (Signature of applicant)

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

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

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

- 19 Identity
- 20 Citizenship
- 21 Age

22 _____

23 Notary Public/Justice of the Peace/

24 Official Authorized by RSA 659:30

25 319:9 Domicile Affidavit. Amend RSA 654:12, I(c) to read as follows:

26 (c) DOMICILE. Any reasonable documentation which indicates that the applicant has a
27 domicile and intends to maintain a domicile, as defined in this chapter, in the town, city, or ward in
28 which he or she desires to vote, or, if the applicant does not have reasonable documentation in his or
29 her possession at the place and time of voter registration, a sworn statement on the general election
30 day voter registration form, or an affidavit in the following form, which shall be retained in
31 accordance with RSA 33-A:3-a:

DOMICILE AFFIDAVIT

33 Date: _____

34 Name: _____

35 Current Domicile Address: _____

36 Street Ward Number

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Town or City Zip Code

Current Mailing Address (if different): _____
Street Ward Number

Town or City Zip Code

Telephone number (requested but optional) _____

Email address (requested but optional) _____

Date when current domicile was established: Month: ____ Year: ____

Place and date of birth: _____

Address of last previous domicile: _____

Street Ward Number

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not currently in possession of necessary documents to prove my domicile and that my established domicile is at the current domicile address I have entered above. 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 city/town, 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 purposefully 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.

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

319:10 Contingency. If HB 466-FN of the 2014 regular legislative session becomes law, sections

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1 2 and 3 of this act shall not take effect and sections 8 and 9 of this act shall take effect 60 days after
2 its passage. If HB 466-FN of the 2014 regular legislative session does not become law, sections 2 and
3 3 of this act shall take effect 60 days after its passage and sections 8 and 9 of this act shall not take
4 effect.

5 319:11 Recount; Deadline. Amend RSA 655:81, XI to read as follows:

6 XI. The deadline for any candidate to request a recount pursuant to RSA 660:7 shall be 5:00
7 p.m. on the day after the election. ***A candidate having requested a recount pursuant to this***
8 ***paragraph may, no later than 5:00 p.m. on the Monday after the primary election,***
9 ***withdraw the request and receive a refund of any fees paid.***

10 319:12 Recount; Deadline. Amend RSA 660:7 to read as follows:

11 660:7 Application.

12 I. Any person for whom a vote was cast for any nomination of any party at a state primary
13 may apply for a recount, provided that the difference between the votes cast for the applying
14 candidate and a candidate of that party declared nominated is less than 10 votes or less than 1.5
15 percent of the total ballots cast in the primary for that party in the towns which comprise the office
16 to be recounted. The application shall be made in writing to the secretary of state and shall be
17 submitted no later than 5:00 p.m. on the Friday after the primary election. Each candidate
18 requesting a recount shall pay the secretary of state fees as provided in RSA 660:2. ***A candidate***
19 ***having requested a recount pursuant to this paragraph may, no later than 5:00 p.m. on the***
20 ***Monday after the primary election, withdraw the request and receive a refund of any fees***
21 ***paid.***

22 II. Any person receiving at least 9 percent of the votes cast in any party's presidential
23 primary may apply for a recount. The application shall be made in writing to the secretary of state
24 and shall be submitted no later than the Friday after the primary for a recount of all ballots cast for
25 such nomination. Each candidate requesting a recount shall pay the secretary of state fees as
26 provided in RSA 660:2. ***A candidate having requested a recount pursuant to this paragraph***
27 ***may, no later than 5:00 p.m. on the Monday after the primary election, withdraw the***
28 ***request and receive a refund of any fees paid.***

29 319:13 Obtaining a Ballot. Amend RSA 659:13, II(b) to read as follows:

30 (b) In addition to the forms of photo identification authorized in subparagraph (a), the
31 following shall satisfy the identification requirements of paragraph I:

32 (1) A photo identification not authorized by subparagraph (a) but determined to be
33 legitimate by the supervisors of the checklist, the moderator, or the town [~~or~~], city, ***or ward*** clerk,
34 provided that if any person authorized to challenge a voter under RSA 659:27 objects to the use of
35 such photo identification, the voter shall be required to execute a challenged voter affidavit as if no
36 identification was presented.

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1 (2) Verification of the person’s identity by a moderator or supervisor of the checklist
2 or the town ~~[or]~~, city, **or ward** clerk, provided that if any person authorized to challenge a voter
3 under RSA 659:27 objects to such verification, the voter shall be required to execute a challenged
4 voter affidavit.

5 319:14 Obtaining a Ballot. Amend RSA 659:13, II(b) to read as follows:

6 (b) In addition to the forms of photo identification authorized in subparagraph (a), the
7 identification requirements of paragraph I may be satisfied by verification of the person’s identity by
8 a moderator or supervisor of the checklist or the town ~~[or]~~, city, **or ward** clerk, provided that if any
9 person authorized to challenge a voter under RSA 659:27 objects to such verification, the voter shall
10 be required to execute a challenged voter affidavit.

11 319:15 Processing Absentee Ballots. Amend RSA 659:49 to read as follows:

12 659:49 Processing Absentee Ballots.

13 I. Processing of previously received absentee ballots shall begin at 1:00 p.m. ***unless a***
14 ***different time, that is no earlier than 2 hours after the opening of the polls, is posted and***
15 ***announced in accordance with paragraph II.*** The processing of the absentee ballots shall not
16 unnecessarily interfere with normal voting procedures, nor shall the polls be closed at any time
17 ~~[during the]~~ ***for the*** processing of such ballots ***during normal polling hours.*** Absentee ballots
18 which are received after ~~[1:00 p.m.]~~ ***the start time for processing absentee ballots*** and prior to
19 5:00 p.m. ***on the day of the election*** shall be processed as soon after receipt as possible. Under no
20 circumstances shall absentee ballots be counted prior to the closing of the polls.

21 II. Notwithstanding the provisions of paragraph I, upon the written challenges of 10 or more
22 voters who are present at the polls no later than 1:00 p.m., the moderator shall postpone the
23 processing of all absentee ballots until after the polls close and prior to the counting of all ballots cast
24 in the election. ***The moderator, or his or her designee, shall post the time at which the***
25 ***processing of absentee ballots shall begin at the polling place and one other public***
26 ***location at least 24 hours before the polls open. In addition, when the polls open the***
27 ***moderator shall announce the time at which the processing of absentee ballots shall begin.***

28 319:16 Repeal. RSA 659:46, relative to delivery of absentee ballots to moderator, is repealed.

29 319:17 Vacancy; State Representative. Amend RSA 661:8, III to read as follows:

30 III. Notwithstanding the provisions of paragraph II, if a vacancy occurs in the office of state
31 representative in a district comprised of a city ward or wards, a request to hold the primary and
32 special elections on the same dates as the city’s biennial primary and regular elections may be
33 submitted to the governor and council by the governing body of the city. If so requested, the governor
34 and council shall declare the vacancy not less than 56 days prior to the date of the city’s primary
35 election. ~~[The filing period shall be held not more than 50 days nor less than 43 days prior to the~~
36 ~~primary election.]~~ ***The filing period shall start on the Monday following the date on which***

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1 *the governor and council declare that there shall be a special election and shall end at 5:00*
2 *p.m. on the Friday of that week.* The provisions of RSA 655:81, III, VI, VII, VIII, IX, X, and XI
3 shall apply to elections held pursuant to this paragraph.

4 319:18 Contingency. If SB 206-FN of the 2014 regular legislative session becomes law, then
5 sections 13 and 14 of this act shall not take effect. If SB 206-FN does not become law, then section
6 13 of this act shall take effect upon the passage of this act and section 14 of this act shall take effect
7 September 1, 2015 at 12:03 a.m.

8 319:19 Effective Date.

9 I. Section 6 of this act shall take effect September 1, 2015 at 12:02 a.m.

10 II. Sections 2, 3, 8, and 9 of this act shall take effect as provided in section 10 of this act.

11 III. Sections 1, 4, 5, and 7 of this act shall take effect 60 days after its passage.

12 IV. Sections 13-14 of this act shall take effect as provided in section 18 of this act.

13 V. The remainder of this act shall take effect upon its passage.

14
15 Approved: August 1, 2014

16 Effective Date: I. Section 6 shall take effect September 1, 2015 at 12:02 a.m.

17 II. Sections 2, 3, 8, and 9 shall take effect as provided in section 10.

18 III. Sections 1, 4, 5, and 7 shall take effect September 30, 2014.

19 IV. Sections 13-14 shall take effect as provided in section 18.

20 V. Remainder shall take effect August 1, 2014.