



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

**MEMORANDUM**

DATE: May 23, 2017

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Ms. Jamie Wolle, Chairperson  
State Council for Persons with Disabilities

RE: H.B. 79 (Motor Voter Program)

This legislation was introduced on March 16, 2017. As of May 8, it awaited action by the House Administration Committee.

A brief summary of the bill is included in the attached March 27 Delaware House Democrats e-newsletter. The legislation is part of package of bills intended to encourage participation in the electoral process.

Consistent with the synopsis, current Delaware law is interpreted as allowing Delawareans applying for, renewing, or replacing a driver's license or identification card to register to vote or update voter registration. H.B. No. 79 would presumptively consider applicants for such DMV services to be registering to vote or updating their voter registration. Applicants would have to affirmatively "opt out" to obviate sharing of DMV information with the Department of Elections (lines 51-52 and 61-64). There are some exceptions. For example, the DMV would not forward information to the Department of Elections for non-citizens (lines 67-68). Both the DMV and Department of Election could issue regulations to facilitate implementation of the program (lines

87-88). Six states and the District of Columbia have enacted similar “opt out” approaches to motor-voter systems. The intent of the legislation is to promote a higher proportion of registered voters.

H.B. No. 79 also amends the statutory authorization to register to vote through some State agencies, including DSS and DVR. Consistent with the synopsis, amendments are intended to conform to the Delaware Legislative Drafting Manual “with no intent to change the substance of these sections”. The bill also updates some outdated references. For example, line 106 substitutes a reference to the Division of Social Services for the former Division of Economic Services.

Since the legislation is intended to facilitate voter registration and update references to State agencies serving persons with disabilities, the SCPD is endorsing the proposed legislation. However, the SCPD would like to recommend that the sponsors consider an amendment. Under current law, authorized State agencies can only provide voter registration services to their employees and agency clients (individuals served by the agency) (lines 102, 112, and 122). It would facilitate voter registration if authorized State agencies were not limited to offering registration to only agency clients. For example, if a couple appears at a State agency seeking services only for one of the spouses, the agency could ostensibly register only the individual applying for services. This is arguably unduly brittle. Consistent with the attached excerpt (42 U.S.C. 1973gg-5) of the National Voter Registration Act of 1993, states are not limited to authorizing state agencies to offer voter registration services only to agency clients.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Ms. Elaine Manlove, State Election Commissioner  
Ms. Jill Fuchs, League of Women Voters of Delaware  
Ms. Kathleen MacRae, ACLU  
Mr. Brian Hartman, Esq.  
Developmental Disabilities Council  
Governor’s Advisory Council for Exceptional Citizens

HB 79 motor voter program 5-23-17



EXCERPT:  
MARCH 27  
HOUSE DEMOCRATS  
E NEWSLETTER

## Bills encourage more Delawareans to vote

Lawmakers unveiled a trio of bills Wednesday aimed at increasing voter turnout and encouraging more people to participate in the electoral process.

The measures would consolidate state and presidential primaries, open early voting and establish automatic voter registration at the Division of Motor Vehicles. Taken together, the bills would have the effect of registering more Delawareans to vote while increasing opportunities to vote.

House Bill 90, sponsored by Rep. David Bentz, would have Delaware join the other 34 states that have early voting, allowing residents to cast ballots before Election Day. The measure would require the Department of Elections to offer early voting to Delawareans for 10 days before a general, primary or special election, including the weekend before Election Day. Maryland and New Jersey are among the states that offer early voting.

House Bill 89, sponsored by Rep. Stephanie T. Bolden, would move Delaware's state primary elections to coincide with its presidential primary elections. Currently, Delaware holds its presidential primaries for both major parties on the fourth Tuesday in April. However, the First State's primaries for statewide and local political offices are held on the second Tuesday after the first Monday in September. The separate dates can create confusion among voters, while turnout for the state primary dramatically drops off from the presidential primary.

\*

A third bill, House Bill 79, sponsored by Rep. Bentz, would establish automatic voter registration at state DMV offices. Delaware's Motor Voter Law, an "eSignature" model, is considered one of the better such policies in the country. The bill would require eligible voters to decline having their information automatically shared with the Department of Elections for registration. Six states and the District of Columbia have enacted similar policies.

Read more about the legislation [here](#).

**Sec. 1973gg-5 Voter registration agencies**

## (a) Designation

(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies -

\* (A) all offices in the State that provide public assistance; and

\* (B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

\* (3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies:

(B) Voter registration agencies designated under subparagraph (A) may include -

\* (i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph

(2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not -

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance;

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(D) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall -

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance -

(i) the mail voter registration application form described in section 1973gg-7(a)(2) of this title, including a statement that -

(I) specifies each eligibility requirement (including citizenship);

(II) contains an attestation that the applicant meets each such requirement; and

(III) requires the signature of the applicant, under penalty of perjury; or

(ii) the office's own form if it is equivalent to the form described in section 1973gg-7(a)(2) of this title, unless the applicant, in writing, declines to register to vote;

(B) provide a form that includes -

(i) the question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(ii) if the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(iii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote (failure to check either box being deemed to constitute a declination to register for purposes of subparagraph (C)), together with the statement (in close proximity to the boxes and in prominent type), "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iv) the statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(v) the statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with \_\_\_\_\_", the blank being filled by the name, address, and telephone number of the appropriate official to whom such a complaint should be addressed; and (C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) Federal Government and private sector cooperation

All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a) of this section, and all nongovernmental entities are encouraged to do so.

(c) Armed Forces recruitment offices

(1) Each State and the Secretary of Defense shall jointly develop and implement procedures for persons to apply to register to vote at recruitment offices of the Armed Forces of the United States.

(2) A recruitment office of the Armed Forces of the United States shall be considered to be a voter registration agency designated under subsection (a)(2) of this section for all purposes of this subchapter.

(d) Transmittal deadline

(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

(Pub. L. 103-31, Sec. 7, May 20, 1993, 107 Stat. 80.)