**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 5288**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Long, Thayer, Jones, Bennett, G.R. Smith, Trantham, Fry, Crawford, Magnuson, Haddon, Elliott, B. Cox and Chumley

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Companion/Similar bill(s): 389, 3581

Introduced in the House on February 25, 2020

Currently residing in the House Committee on **Judiciary**

Summary: Primaries

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/25/2020 House Introduced and read first time ([House Journal‑page 16](file:///h:\hj\20200225.docx))

2/25/2020 House Referred to Committee on **Judiciary** ([House Journal‑page 16](file:///h:\hj\20200225.docx))

2/26/2020 House Member(s) request name added as sponsor: Thayer, Jones, Bennett, G.R.Smith, Trantham, Fry, Crawford, Magnuson, Haddon, Elliott, B.Cox, Chumley

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**VERSIONS OF THIS BILL**

[2/25/2020](file:///p:\pprever\2019-20\5288_20200225.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 7‑5‑115 SO AS TO, AMONG OTHER THINGS, PROVIDE THAT A PERSON IS NOT ALLOWED TO VOTE IN A PARTISAN PRIMARY ELECTION OR A PARTISAN ADVISORY REFERENDUM UNLESS THE PERSON HAS REGISTERED AS BEING A MEMBER OF THAT PARTY OR IS REGISTERED AS AN INDEPENDENT; TO AMEND SECTION 7‑5‑110, RELATING TO THE REQUIREMENT OF REGISTRATION IN ORDER TO VOTE, SO AS TO PROVIDE THAT A PERSON IS NOT ALLOWED TO VOTE IN A PARTISAN PRIMARY ELECTION OR PARTISAN ADVISORY REFERENDUM UNLESS THE PERSON HAS REGISTERED AS BEING A MEMBER OF THAT POLITICAL PARTY OR REGISTERED AS AN INDEPENDENT; TO AMEND SECTION 7‑5‑170, RELATING TO THE REQUIREMENTS FOR VOTER REGISTRATION, SO AS TO PROVIDE THE REQUIREMENT OF STATING POLITICAL PARTY AFFILIATION, IF ANY, ON THE FORM AND INCLUDING IT IN THE OATH AND TO REQUIRE THE STATE ELECTION COMMISSION TO ASSIST IN CAPTURING THIS DATA; AND TO AMEND SECTION 7‑9‑20, RELATING TO THE QUALIFICATIONS FOR VOTING IN PRIMARY ELECTIONS, SO AS TO INCLUDE, AS A REQUIREMENT, REGISTRATION AS A MEMBER OF THE PARTY OR STATUS AS A REGISTERED INDEPENDENT AND TO PROVIDE A PROCEDURE FOR CHANGING POLITICAL PARTY AFFILIATION OR NONAFFILIATION AFTER A SELECTION HAS BEEN MADE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 5, Title 7 of the 1976 Code is amended by adding:

“Section 7‑5‑115. (A) Only an elector registered as a member of a certified political party may vote in a partisan primary election or partisan advisory referendum of the certified political party with which that elector is registered. All electors who have not registered as a member of a certified political party are deemed independent and may vote in a partisan primary election or partisan advisory referendum of a certified political party. Upon casting a vote in a partisan primary election or partisan advisory referendum of a certified political party, an independent elector becomes a registered member of that certified political party for two years. Once a member of a certified political party, an elector may not register with a different certified political party or return to independent status for two years. In no event may an elector registered as a member of a certified political party vote in the partisan primary election or partisan advisory referendum of a certified political party with which that elector is not registered.

(B) The State Election Commission shall assist the county entities charged by law with registering electors with creating and maintaining a list of all electors registered by party affiliation. The State Election Commission shall indicate in the state voter file what selection an elector makes. An elector must be registered as a member of a certified political party or be independent thirty days prior to a partisan primary election or partisan advisory referendum in order to vote. The county entities shall allow electors to register by party, if they wish, by having an elector sign the following statement before an election official overseeing the conduct of the partisan primary election:

‘I do solemnly swear (or affirm) that I am a resident of South Carolina and a registered voter in this precinct. I further swear (or affirm) that I hereby choose to: (a) register as a member of a certified political party, specifically the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Party; or (b) register as an independent voter, unaffiliated with a certified political party.’

The form to be signed by the elector may list specifically all of the certified political parties from which the elector may choose and must contain the option for the elector to register as an independent voter unaffiliated with a certified political party. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector must be deemed to have chosen to be registered as an independent voter unaffiliated with a certified political party.

(C) Prior to January 1, 2021, the entity charged by law with registering qualified electors shall contact the qualified electors of that county, by whatever method it determines to be appropriate, informing them of partisan primary voting procedures as provided in this section.”

SECTION 2. Section 7‑5‑110 of the 1976 Code is amended to read:

“Section 7‑5‑110. (A) ~~No~~ A person ~~shall be allowed to~~ may not vote ~~at any~~ in a partisan primary election or a partisan advisory referendum unless he ~~shall be~~ is registered as ~~herein~~ a member of that political party or as an independent as required by the provisions of this chapter.

(B) The State Election Commission shall assist the county entities charged by law with registering electors with capturing the data and maintaining a list of all electors registered by party affiliation.

(C) After the first primary is conducted under the provisions of this section, the entity charged by law with registering qualified electors shall contact the qualified electors of that county, by whatever method it determines to be appropriate, informing them of partisan primary voting procedures as provided in this section.

(D) The State Election Commission shall provide a format for absentee voting registration to comply with the provisions of this section.”

SECTION 3. Section 7‑5‑170 of the 1976 Code is amended to read:

“Section 7‑5‑170. ~~(1)~~(A) Written application required. A person may not be registered to vote except upon written application or electronic application pursuant to Section 7‑5‑185~~,~~. ~~which shall become~~ That application becomes a part of the permanent records of the board to which it is presented and ~~which~~ must be open to public inspection. However, the social security number contained in the application must not be open to public inspection.

~~(2)~~(B) Form of application. The application must be on a form prescribed and provided by the executive director and shall contain the following information: name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, political party affiliation, if any, and location of prior voter registration. The applicant ~~must~~ shall affirm that he is not under a court order declaring him mentally incompetent, confined in ~~any~~ a public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant ~~must~~ shall take the following oath:

‘I, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed ~~herein~~ on my application is my sole legal place of residence and that I claim no other place as my legal residence. I further swear (or affirm) that I hereby choose to: (a) register as a member of a certified political party, specifically the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Party; or (b) register as an independent voter, unaffiliated with a certified political party.’

(C) Fraudulent application. ~~Any~~ An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

(D) Failure to select a party. The form to be signed by the elector may list specifically all of the certified political parties from which the elector may choose and must contain the option for the elector to register as an independent voter, unaffiliated with a certified political party. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector must be deemed to have chosen to be registered as an independent voter, unaffiliated with a certified political party.

~~(3)~~(E) Administration of oaths. ~~Any~~ A member of the registration board, deputy registrar, or ~~any~~ a registration clerk must be qualified to administer oaths in connection with the application.

~~(4)~~(F) Decisions on applications. ~~Any~~ A member of the registration board, deputy registrar, or a registration clerk may pass on the qualifications of the prospective voter. In case of a question of an applicant being refused registration, at least one member of the board shall pass on the qualifications of the voter. A concise statement of the reasons for the refusal must be written on the application.”

SECTION 4. Section 7‑9‑20 of the 1976 Code is amended to read:

“Section 7‑9‑20. (A) The qualifications for membership in a certified party ~~and for voting at a party primary election include the following: the applicant for membership, or voter, must be at least eighteen years of age or become so before the succeeding general election, and must be a registered elector and a citizen of the United States and of this State. A person may not vote in a primary unless he is a registered elector. The state convention of any political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if the qualifications do not conflict with the provisions of this section or with the Constitution and laws of this State or of the United States.~~ and the criteria for voting in a party’s partisan primary election or partisan advisory referendum, unless a certified political party has taken action to open its partisan primary election or partisan advisory referendum to independent electors unaffiliated with a certified political party pursuant to the requirements of Section 7‑5‑115, the applicant for membership, or voter, must include the following:

(1) at least eighteen years of age or become so before the succeeding general election;

(2) a registered elector, a citizen of the United States and of this State; and

(3) must have registered as a member of a certified political party.

(B) A person may not belong to a party club or vote in a partisan primary election unless he is a registered elector and a member of that party or registered as an independent. The state convention of a political party, organization, or association in this State may add by party rules to the qualifications for membership in the party, organization, or association and for voting at the primary elections if the qualifications do not conflict with the provisions of this section or with the constitution and laws of this State or of the United States.

(C) The entity charged by law with conducting a primary shall allow an elector to change his political party affiliation by executing an affidavit no later than sixty days before the primary. During that time, an elector may execute an affidavit declaring that he desires not to be affiliated with a political party. The choice to affiliate with a political party or remain independent and unaffiliated with a certified political party is valid until changed by the qualified elector pursuant to the provisions of this section. In an instance where an elector fails, for whatever reason, to select membership in one of the certified political parties, that elector must be deemed to have chosen to be registered as an independent voter, unaffiliated with a certified political party.

(D) When a qualified elector presents himself at a polling place to vote in a partisan primary election or partisan advisory referendum, the entity charged by law with conducting the election or its representative shall require the qualified elector to sign an affidavit affirming that he is a member of the party conducting the primary, or that he is an independent elector unaffiliated with a certified political party who meets the criteria established by that political party to vote in that particular partisan primary election or partisan advisory referendum pursuant to the requirements of Section 7‑5‑115. If the qualified elector does not sign this affidavit, he may not vote in the partisan primary election or partisan advisory referendum.

(E) Once a qualified elector registers with a certified political party, an elector may not register with a different certified political party or return to independent status for two years. If a qualified elector, registered as an independent votes in a partisan primary election or partisan advisory referendum, the elector remains a member of that certified political party for two years and cannot change his party registration until the expiration of two years.”

SECTION 5. Notwithstanding the provisions of this act, in all primaries conducted before June 2022, an elector is permitted to vote if he has not signed the affidavit required by this act. After May 31, 2022, all political party primaries must be conducted pursuant to the provisions of this act.

SECTION 6. This act takes effect upon approval by the Governor.

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