

STATE OF NEW YORK

4262

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. EPSTEIN, KIM -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the correction law, in relation to promoting voter registration and voting by incarcerated people; and to repeal certain provisions of the election law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 5-104 of the election law is amended by adding a
2 new subdivision 1-a to read as follows:

3 1-a. For the purpose of registering and voting, an incarcerated person
4 in a state or local correctional facility shall be considered a resident
5 of the address he or she resided at prior to his or her incarceration.

6 § 2. Subdivisions 2, 3, 4 and 5 of section 5-106 of the election law
7 are REPEALED and subdivision 6 is renumbered subdivision 2.

8 § 3. Subdivision 1 of section 5-400 of the election law, as amended by
9 chapter 659 of the laws of 1994, paragraph (a) as amended by chapter 3
10 of the laws of 2019, is amended and a new subdivision 1-a is added to
11 read as follows:

12 1. A voter's registration, including the registration of a voter in
13 inactive status, shall be cancelled if, since the time of his or her
14 last registration, he or she:

15 (a) Moved his or her residence outside the state.

16 (b) [~~was convicted of a felony disqualifying him from voting pursuant~~
17 ~~to the provisions of section 5-106 of this article.~~

18 ~~(c)~~] Has been adjudicated an incompetent.

19 ~~(d)~~ (c) Refused to take a challenge oath.

20 ~~(e)~~ (d) Has died.

21 ~~(f)~~ (e) Did not vote in any election conducted by the board of
22 elections during the period ending with the second general election at
23 which candidates for federal office are on the ballot after his or her
24 name was placed in inactive status and for whom the board of elections

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 did not, during such period, in any other way, receive any information
2 that such voter still resides in the same county or city.

3 ~~[(g)]~~ (f) Personally requested to have his or her name removed from
4 the list of registered voters.

5 ~~[(h)]~~ (g) For any other reason, is no longer qualified to vote as
6 provided in this chapter.

7 1-a. A voter's registration shall not be cancelled while he or she is
8 incarcerated in a state or local correctional facility and no munici-
9 pality shall enact any local law, rule, regulation or ordinance that
10 prevents or restricts an incarcerated person's ability to register or
11 vote.

12 § 4. Subdivision 2 of section 5-708 of the election law is REPEALED
13 and subdivisions 3, 4, 5, 6 and 7, subdivision 3 as renumbered by chap-
14 ter 659 of the laws of 1994, are renumbered subdivisions 2, 3, 4, 5 and
15 6.

16 § 5. Subdivision 3 of section 5-708 of the election law, as added by
17 chapter 659 of the laws of 1994 and as renumbered by section four of
18 this act, paragraph a as amended by chapter 200 of the laws of 1996, is
19 amended to read as follows:

20 3. a. If a board of elections receives any notices pursuant to the
21 provisions of ~~[subdivisions]~~ subdivision two ~~[and three]~~ of this section
22 which set forth a residence address outside of the city or county of
23 such board's jurisdiction, it shall, at least once a month, transmit
24 such notices to the appropriate board of elections, or, if such address
25 is outside the state, to the state board of elections.

26 b. The state board shall arrange such notices and the names received
27 pursuant to the other provisions of this section by county of residence
28 and transmit such notices ~~[and any notices of conviction for a felony~~
29 ~~received from a United States attorney]~~ to the appropriate board of
30 elections.

31 c. If any such notices, or names received pursuant to the other
32 provisions of this section, set forth a residence address outside New
33 York state, the state board shall transmit such notices to the chief
34 state election official of such state at such times and in such manner
35 as it deems appropriate.

36 § 6. Section 75 of the correction law, as amended by section 18 of
37 subpart A of part C of chapter 62 of the laws of 2011, is amended to
38 read as follows:

39 § 75. Notice of voting rights. 1. The department, in collaboration
40 with the state and county boards of election, shall establish a program
41 to promote voter registration and voting by incarcerated people. Such
42 program shall include:

43 (a) development and distribution of a voter information guide to be
44 distributed to incarcerated people and shall include but not be limited
45 to the following information:

46 (i) important dates and deadlines;
47 (ii) registration requirements and instructions;
48 (iii) how to request and cast an absentee ballot while incarcerated;
49 and

50 (iv) resources for any additional questions; and
51 (b) voter information and registration clinics for incarcerated
52 people. Such clinics shall:

53 (i) be held every other year to coincide with election cycles;
54 (ii) be held at least ninety days prior to an election to allow
55 adequate time for voter registration and the requesting and mailing of
56 absentee ballots;

1 (iii) inform incarcerated people of:
2 (A) their ability to vote while incarcerated;
3 (B) important dates and deadlines;
4 (C) registration requirements and instructions; and
5 (D) guidance on requesting and casting absentee ballots while incar-
6 cerated; and
7 (iv) serve as voter registration drives for qualified incarcerated
8 people. A department staff member or designee shall be available to
9 assist incarcerated people in filling out paper or electronic registra-
10 tion forms and to provide the appropriate address for the mailing of
11 completed registration forms.

12 2. Upon the discharge from a correctional facility [~~of any person~~
13 ~~whose maximum sentence of imprisonment has expired~~] or upon a person's
14 discharge from community supervision, the department shall notify such
15 person of his or her right to vote and provide such person with a form
16 of application for voter registration together with written information
17 distributed by the board of elections on the importance and the mechan-
18 ics of voting.

19 § 7. This act shall take effect on the same date as a "CONCURRENT
20 RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to sections
21 1 and 3 of article 2 of the constitution, in relation to authorizing
22 voting by incarcerated people" takes effect. Effective immediately, the
23 addition, amendment and/or repeal of any rule or regulation necessary
24 for the implementation of this act on its effective date are authorized
25 to be made and completed on or before such effective date.