

STATE OF NEW YORK

4517

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

Introduced by M. of A. EPSTEIN, KIM, MITAYNES, MAMDANI, ANDERSON, SIMON, FORREST, GONZALEZ-ROJAS -- 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:

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

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

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 Subdivisions 2, 3, 4 and 5 of section 5-106 of the election law are REPEALED and subdivision 6 is renumbered subdivision 2.

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

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

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

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

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

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

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

~~(f)~~ (e) Did not vote in any election conducted by the board of elections during the period ending with the second general election at which candidates for federal office are on the ballot after his or her

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

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1 name was placed in inactive status and for whom the board of elections
2 did not, during such period, in any other way, receive any information
3 that such voter still resides in the same county or city.

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

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

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

13 § 4. Subdivision 2 of section 5-708 of the election law is REPEALED
14 and subdivisions 3, 4, 5, 6 and 7, subdivision 3 as renumbered by chap-
15 ter 659 of the laws of 1994, are renumbered subdivisions 2, 3, 4, 5 and
16 6.

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

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

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

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

37 § 6. Section 75 of the correction law, as amended by chapter 103 of
38 the laws of 2021, is amended to 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. Prior to the release from a correctional facility of any person the
13 department shall [~~notify such person verbally and in writing, that his~~
14 ~~or her voting rights will be restored upon release and~~] provide such
15 person with a form of application for voter registration and a declina-
16 tion form, offer such person assistance in filling out the appropriate
17 form, and provide such person written information distributed by the
18 board of elections on the importance and the mechanics of voting. Upon
19 release, such person may choose to either submit his or her completed
20 application to the state board or county board where such person resides
21 or have the department transmit it on his or her behalf. Where such
22 person chooses to have the department transmit the application, the
23 department shall transmit the completed application upon such person's
24 release to the state board or county board where such person resides.

25 § 7. This act shall take effect on the same date as a "CONCURRENT
26 RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to sections
27 1 and 3 of article 2 of the constitution, in relation to authorizing
28 voting by incarcerated people" takes effect. Effective immediately, the
29 addition, amendment and/or repeal of any rule or regulation necessary
30 for the implementation of this act on its effective date are authorized
31 to be made and completed on or before such effective date.