STATE OF NEW YORK

440--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. MYRIE, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, LIU, MAY, MAYER, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO, SUTTON, ZELLNER -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, the correction law and the New York city charter, in relation to voting rights and access for incarcerated individuals

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

Section 1. This act shall be known and may be cited as the "Democracy During Detention Act".

§ 2. The election law is amended by adding a new section 8-109 to read as follows:

§ 8-109. Polling places at correctional facilities and local correctional facilities. 1. For purposes of facilitating voting by incarcerated individuals at correctional facilities and local correctional facilities, as such terms are defined in section two of the correction law, the board of elections of each county may establish by majority vote, in lieu of the absentee balloting program set forth in section 8-415 of this article, a polling place at any such facility for at least three hours of operation beginning the tenth day prior to any general, primary, run-off primary pursuant to subdivision one of section 6-162 of this chapter or special election for any public or party position, and ending on and including the ninth day prior to such general, primary, run-off primary or special election for such public office or party

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

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position. Any such polling place shall be established in compliance with the early voting provisions of paragraphs (d) and (e) of subdivision four and subdivisions five through eleven of section 8-600 of this article, section 8-604 of this article regarding registration during early voting, and subdivision one-a of section 4-104 of this chapter. Voter access to polling places established pursuant to this section shall be restricted to voters incarcerated at such facility or related facilities and voters who are employees of such facilities, who are registered to vote in the county where such facility is located. All other eligible voters who are incarcerated at such facility or who are employees of such facility shall be provided with voter registration forms and absentee ballot applications pursuant to section 8-415 of this article. The establishment of polling places under this section shall be in addition to, and shall not diminish, the minimum quantity of early voting locations required by subdivision two of section 8-600 of this article, nor shall the fact of such establishment alter or prejudice the application of the equitable siting factors therein.

2. (a) For purposes of facilitating voting by incarcerated individuals at correctional facilities and local correctional facilities, as such terms are defined in section two of the correction law, the board of elections in the city of New York may establish by majority vote, in lieu of the absentee balloting program set forth in section 8-415 of this article, a polling place at any such facility for at least six hours of operation beginning the tenth day prior to any general, primary, run-off primary pursuant to subdivision one of section 6-162 of this chapter or special election for any public or party position, and ending on and including the eighth day prior to such general, primary, run-off primary or special election for such public office or party position. Any such polling place shall be established in compliance with the provisions of paragraphs (d) and (e) of subdivision four and subdivisions five through eleven of section 8-600 of this article, section 8-604 of this article, and subdivision one-a of section 4-104 of this chapter. Voter access to polling places established pursuant to this section shall be restricted to voters incarcerated at such facility or related facilities and voters who are employees of such facilities, who are registered to vote in the county where such facility is located. All other eligible voters who are incarcerated at such facility or who are employees of such facility shall be provided with voter registration forms and offered absentee ballot applications pursuant to section 8-415 of this article. The establishment of polling places under this section shall be in addition to, and shall not diminish, the minimum quantity of early voting locations required by subdivision two of section 8-600 of this article, nor shall the fact of such establishment alter or prejudice the application of the equitable siting factors therein.

(b) Without limiting the provisions of paragraph (a) of this subdivision, the board of elections in the city of New York, in performing its obligations under paragraph (a) of this subdivision, shall conduct at least one site visit between forty-five and thirty days prior to a primary or general election to administer timely voter registration by eligible citizens at each correctional or local correctional facility for which a polling place will be established pursuant to paragraph (a) of this subdivision using board of elections electronic tablets and digital resources wherever possible to effectuate electronic voter registration in accordance with section 5-802 of this title, resorting to paper forms only in extenuating circumstances or where employing such tablets and digital resources would be impracticable.

3. Prior to the establishment of a polling place pursuant to subdivision one or two of this section, the board of elections shall develop a facility voter access plan in consultation and cooperation with and countersigned by the facility's superintendent, administrator or director, or their designated democracy officer or agent. Such plan shall describe the dates, times, and location or locations where registration and voting will take place; the proposed staffing levels; election equipment, materials, and voting machines to be deployed; how detained citizens will be informed of voter eligibility; the technology, electricity, and cybersecurity needed to effectuate the plan; and voting procedures, security measures and other considerations relevant to ensuring secure and accessible voter access for eligible voters located at the facility. Such plan shall be submitted to the state board of elections no later than ninety days prior to the first day of voting and approved by the state board of elections with any amendments prescribed by the state board of elections no later than seventy-five days prior to the first day of voting and shall be a public record.

§ 3. The election law is amended by adding a new section 8-415 to read as follows:

§ 8-415. Absentee voting; application and registration drive for incarcerated individuals at correctional facilities and local correctional facilities. 1. This section applies to any correctional facility or local correctional facility, as such terms are defined in section two of the correction law, except for any such facility where the incarcerated individuals at such facility are exclusively under the age of eighteen.

2. (a) The board of elections in counties with at least one hundred thousand registered voters shall provide that the eligible incarcerated individuals at any such facility in such county with seventy-five or more incarcerated individuals may vote by absentee ballot as provided for in this section.

(b) Each board of elections subject to paragraph (a) of this subdivision shall develop a facility voter access plan in consultation and cooperation with and countersigned by the facility's superintendent, administrator or director, or their designated democracy officer or agent. Such plan shall include written procedures to ensure orderly administration of the absentee balloting program at each such facility, in a manner such that all eligible persons have an effective opportunity to register and vote. Such procedures shall include the delivery and retrieval of electronic or paper voter registration forms, ballot requests, and absentee ballots; describe the dates, times, and location or locations where registration and voting will take place; the proposed staffing levels; election equipment, materials, and any voting machines to be deployed; how incarcerated individuals will be informed of voter eligibility; the technology, electricity, and cybersecurity needed to effectuate the plan; and procedures, security measures and other considerations relevant to ensuring secure and accessible voting at the facility. This plan shall be submitted to the state board of elections no later than ninety days prior to the first election day in which such facility will participate in this program, and approved by the state board of elections with any amendments prescribed by the state board of elections no later than seventy-five days prior to such election day, and shall be a public record. This paragraph shall not apply to facilities where a board of elections establishes a polling place in accordance with section 8-109 of this article.

(c) Without limiting the provisions of paragraph (a) of this subdivision, the board of elections in the city of New York, in performing its obligations under paragraph (a) of this subdivision shall:

(i) ensure the adequate resource allocation and deployment, in a manner consistent with that provided to voters who are not incarcerated, of assistive devices and reasonable accommodations for persons with disabilities pursuant to section 4-104 of this chapter, and interpretive resources and language-related assistance in voting and elections pursuant to section 17-208 of this chapter and in coordination with the poll site language assistance program prescribed by paragraph (a) of subdivision four of section thirty-two hundred two of the charter of the city of New York, to the extent justified by the needs of the voters incarcerated;

(ii) conduct at least one site visit between thirty and forty-five days prior to a primary or general election to administer timely voter registration and absentee ballot application by eligible citizens at each such facility in accordance with subdivision three of this section using board of elections electronic tablets and digital resources wherever possible to effectuate electronic voter registration in accordance with section 5-802 of this chapter and electronic absentee ballot application in accordance with section 8-408 of this title, resorting to paper forms only in extenuating circumstances or where employing such tablets and digital resources would be impracticable, provided however, that the board of elections in the city of New York may dispense with such site visit if the approved written procedures for voting at such facility required by paragraph (a) of this subdivision expressly authorize and direct the board of inspectors attending such facility to conduct and process same-day voter registration and to receive and process same-day in-person absentee ballot applications, including, for applicants that are determined to be entitled to vote, delivery of the applicable ballots; and

(iii) allocate and deploy sufficient equipment, personnel, and resources when attending correctional facilities and local correctional facilities within its jurisdiction at levels that, in consultation with the state board of elections, take into account the estimated number of eligible voters, historical data regarding the time taken to check in and process voters at an office of the board of elections or a polling place, public safety and security considerations, the division of incarcerated individuals among buildings, and other relevant factors.

3. For all other correctional facilities and local correctional facilities, the board of elections shall coordinate with the superintendent, administrator, director, designated democracy officer or agent to facilitate voter access by ensuring that all eligible citizens are provided with access to electronic personal voter registration pursuant to this article or voter registration by application which shall be processed pursuant to sections 5-208 and 5-210 of this chapter, as applicable, and, except for county voters detained or confined at a correctional facility or local correctional facility at which a polling place will be established pursuant to section 8-109 of this article, that all eligible voters are provided with an absentee ballot application no later than twenty-one days prior to election day. It shall be the duty of each such superintendent, administrator, director, designated democracy officer or agent to assist the board in the discharge of its duties pursuant to this subdivision, including, but not limited to making available suitable space and reasonable accommodations within such facility.

4. The state board of elections shall promulgate non-partisan educational materials in plain language about the voting rights of individuals currently incarcerated and formerly incarcerated for inclusion in the incarcerated individual handbook or similar materials and reentry resources.

5. Without limiting the provisions of subdivisions three and four of this section, the board of elections in the city of New York, in performing its obligations under subdivision three of this section, shall deploy interpretive resources and language-related assistance to ensure all eligible individuals have an effective opportunity to register to vote and apply for an absentee ballot, to the extent justified by the needs of the voters actually incarcerated.

6. Nothing in this section shall be construed to limit the rights under state and federal law of any voter pursuant to this section and the rights and remedies provided for under title two of article seventeen of this chapter.

§ 4. Subdivision 1 of section 17-208 of the election law, as added by chapter 226 of the laws of 2022, is amended to read as follows:

1. Political subdivisions required to provide language assistance. A board of elections or a political subdivision that administers elections shall provide language-related assistance in voting and elections to a language-minority group in a political subdivision, or to citizens belonging to a language-minority group incarcerated at correctional facilities or local correctional facilities, if, based on data from the American community survey, or data of comparable quality collected by a public office, such data indicates that:

(a) more than two percent, but in no instance fewer than three hundred individuals, of the citizens of voting age of a political subdivision, or in the city of New York the citizens of voting age incarcerated at correctional facilities or local correctional facilities, are members of a single language-minority group and are limited English proficient.

(b) more than four thousand of the citizens of voting age of such political subdivision are members of a single language-minority group and are limited English proficient.

(c) in the case of a political subdivision that contains all or any part of a Native American reservation, more than two percent of the Native American citizens of voting age within the Native American reservation are members of a single language-minority group and are limited English proficient. For the purposes of this paragraph, "Native American" is defined to include any persons recognized by the United States census bureau or New York as "American Indian" or "Alaska Native".

§ 5. Section 75 of the correction law, as amended by chapter 103 of the laws of 2021, is amended to read as follows:

§ 75. [~~Notice of voting~~] Voting rights. 1. Freedom to vote. All persons who have been or hereafter be incarcerated at any correctional facility, who are qualified to register for and vote at any election pursuant to section 5-102 of the election law and not subject to exclusion by section 5-106 of the election law, are hereby declared to be entitled to the free exercise and enjoyment of the elective franchise without discrimination or preference.

2. Opportunity to register to vote and request ballots. The rules and regulations established for any correctional facility shall recognize the right of incarcerated individuals, who are qualified to register for and vote at any election pursuant to section 5-102 of the election law and not subject to exclusion by section 5-106 of the election law, to the free exercise of their right to vote in accordance with the

provisions of the constitution and, to effectuate such end, shall allow for access by the eligible individuals to electronic personal voter registration or voter registration by application pursuant to article five of the election law and to access absentee balloting services through the electronic absentee ballot application transmittal system or by paper application pursuant to title four of article eight of the election law, in such manner as may best carry into effect the intent of this section and be consistent with the proper discipline and management of the correctional facility. Such services shall be made available within the buildings or grounds, whenever possible, where the incarcerated individuals are confined, in such manner and at such hours as will be in accordance with the rules and regulations of both the facility and the board of elections, and such facilities shall secure to such individuals the free exercise of their right to vote in accordance with the provisions of this section. In case of a violation of any of the provisions of this section, any person aggrieved thereby may exercise any rights and remedies provided for under state and federal law, including by instituting proceedings in the supreme court of the district where such facility is situated, which is hereby authorized and empowered to enforce the provisions of this section.

3. Duty to cooperate. Pursuant to sections 8-109, if applicable, 8-406, 8-415, and 17-208 of the election law, the superintendent of each correctional facility shall cooperate with the board of elections in developing and implementing a plan to facilitate at least one method of voter access for all persons eligible to vote who are incarcerated at each such facility. The superintendent of each correctional facility shall provide timely clearance of board of elections personnel appointed by the board of elections to discharge their duties under sections 8-407 and 8-415 of the election law, authorize access for such personnel, and provide security for board of elections personnel. The superintendent of each correctional facility shall ensure that such personnel shall be provided with the necessary resources, space and reasonable accommodations within such facility for the discharge of its duties. The department shall issue regulations directing each such facility to ensure the timely delivery, and to facilitate the timely return if applicable, of all official election mail, forms, notices or communications to any incarcerated individual at such facility and that nonpartisan plain language educational materials about the voting rights of individuals currently incarcerated and formerly incarcerated are included in the incarcerated individual handbook or similar materials and reentry resources. Without limiting any rights or remedies provided to voters under the law, there shall be a presumption of a violation of subdivision one of section 17-212 of the election law when any superintendent, employee, or agent of such correctional facility, by commission or omission, intentionally frustrates the purposes of this section.

4. Rights restoration upon release and registration. Prior to the release from a correctional facility of any person the department shall notify such person verbally and in writing, that [~~his or her~~] such voting rights will be restored upon release and provide such person with a form of application for voter registration and a declination form, offer such person assistance in filling out the appropriate form, and provide such person written information distributed by the board of elections on the importance and the mechanics of voting. Upon release, such person may choose to either submit [~~his or her~~] such completed application to the state board or county board where such person resides or have the department transmit it on [~~his or her~~] such person's behalf.

Where such person chooses to have the department transmit the application, the department shall transmit the completed application upon such person's release to the state board or county board where such person resides.

§ 6. Section 510 of the correction law, as amended by chapter 473 of the laws of 2023, is amended to read as follows:

§ 510. Voting [~~upon release~~]. 1. Freedom to vote. All persons who have been or hereafter are incarcerated at any local correctional facility, who are qualified to register for and vote at any election pursuant to section 5-102 of the election law and not subject to exclusion by section 5-106 of the election law, are hereby declared to be entitled to the free exercise and enjoyment of the elective franchise without discrimination or preference.

2. Opportunity to register to vote and request ballots. The rules and regulations established for local correctional facilities shall recognize the right of incarcerated individuals, who are qualified to register for and vote at any election pursuant to section 5-102 of the election law and not subject to exclusion by section 5-106 of the election law, to the free exercise of their right to vote in accordance with the provisions of the constitution and, to effectuate such end, shall allow for access by the eligible individuals to electronic personal voter registration or voter registration by application pursuant to article five of the election law and to access absentee balloting services through the electronic absentee ballot application transmittal system or by paper application pursuant to title four of article eight of the election law, in such manner as may best carry into effect the intent of this section and be consistent with the proper discipline and management of the correctional facility. Such services shall be made available within the buildings or grounds, whenever possible, where the incarcerated individuals are confined, in such manner and at such hours as will be in accordance with the rules and regulations of both the facility and the board of elections, and secure to such individuals the free exercise of their right to vote in accordance with the provisions of this section. In case of a violation of any of the provisions of this section, any person aggrieved thereby may exercise any rights and remedies provided for under state and federal law, including by instituting proceedings in the supreme court of the district where such facility is situated, which is hereby authorized and empowered to enforce the provisions of this section.

3. Duty to cooperate. Pursuant to sections 8-406, 8-415, and 17-208 of the election law, the superintendent of each local correctional facility shall cooperate with the board of elections in developing and implementing a plan to facilitate at least one method of voter access for all persons eligible to vote who are incarcerated at each such facility, including, but not limited to providing timely clearance, access, and security for board of elections personnel and resources, and making available to such board space and reasonable accommodations within such facility for the discharge of its duties. The department shall issue regulations directing each such facility to ensure the timely delivery, and to facilitate the timely return if applicable, of all official election mail, forms, notices or communications to any incarcerated individual at such facility and that non-partisan plain language educational materials about the voting rights of individuals currently incarcerated and formerly incarcerated are included in the incarcerated individual handbook or similar materials and reentry resources. Without limiting any rights or remedies provided to voters under the law, there

shall be a presumption of a violation of subdivision one of section 17-212 of the election law when any superintendent, employee, or agent of such local correctional facility, by commission or omission, intentionally frustrates the purposes of this section. This subdivision shall not apply to any facility where the persons incarcerated at such facility are exclusively under the age of eighteen.

4. Rights restoration upon release and registration. Prior to the release from a local correctional facility of any person convicted of a felony the chief administrative officer shall notify such person verbally and in writing that [~~his or her~~] their voting rights will be restored upon release and provide such person with a form of application for voter registration and a declination form, offer such person assistance in filling out the appropriate form, and provide such person written information distributed by the board of elections on the importance and the mechanics of voting. Upon release, such person may choose to either submit [~~his or her~~] their completed application to the state board or county board where such person resides or have the department transmit it on [~~his or her~~] their behalf. Where such person chooses to have the department transmit the application, the chief administrative officer shall transmit the completed application upon such person's release to the state board or county board where such person resides.

[~~2.~~] 5. Upon discharge or release from the custody of a local correctional facility, the chief administrative officer of such facility shall, in consultation with the county board of elections, distribute to every person eighteen years of age or older a written notice on the voting rights of such person in the state of New York, including information on the importance and mechanics of voting, when such person is or may become eligible to vote, and offer to every such person a voter registration form; provided that, if an individual declines to accept a voter registration form, the chief administrative officer shall maintain a written record of such declination. Notice is not required for those individuals being transferred to a different local correctional facility, individuals being transferred or released to the custody of a state correctional facility or institution, or individuals being released to the custody of a hospital or mental health institution for treatment.

§ 7. Subdivision 9 of section 1057-a of the New York city charter, as amended by chapter 481 of the laws of 2023, is amended to read as follows:

9. In addition to the other requirements of this section, the department of correction shall [~~implement and administer a program of distribution and submission of early mail and absentee ballot applications, and subsequently received early mail or absentee ballots, for eligible incarcerated individuals. Such department shall offer, to all incarcerated individuals who are registered to vote, early mail and absentee ballot applications, and a means to complete them, during the period from sixty days prior to any primary, special, or general election in the city of New York until two weeks prior to any such election. Such department shall subsequently provide any early mail or absentee ballot received from the board of elections in response to any such application to the applicable incarcerated individual, as well as a means to complete it. Such department shall provide assistance to any such incarcerated individual in filling out such application or ballot upon request. Such department shall, not later than five days after receipt, transmit such completed applications and ballots from any incarcerated individual who wishes to have them transmitted to the board of elections for the city of New York. The provisions of this subdivision shall not~~

~~apply in any specific instance in which the department deems it unsafe to comply therewith~~] assist, coordinate, and cooperate with the board of elections in developing and implementing a plan to facilitate voter access for all persons eligible to vote who are incarcerated at each facility, in accordance with the democracy during detention act.

§ 8. Subparagraph (a) of paragraph 4 of subdivision a of section 3202 of the New York city charter, as added by section 2 of question 2 of local law number 211 of the city of New York for the year 2018, is amended to read as follows:

(a) Subject to appropriation and after consultation with the mayor's office of immigrant affairs and the department of city planning, establish a program for providing language interpreters at poll sites throughout New York city for the purpose of facilitating participation by limited English proficient individuals in voting in elections held in the city, which shall include correctional facilities and local correctional facilities located in the city. To the extent practicable, the commission shall consult and coordinate with the board of elections of the city of New York in the development and implementation of the program established pursuant to this paragraph.

§ 9. This act shall take effect on the first of July next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.