## STATE OF NEW YORK

3524

2019-2020 Regular Sessions

## IN ASSEMBLY

January 29, 2019

Introduced by M. of A. NORRIS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the election law and the education law, in relation to voting by level two or level three sex offenders

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

Section 1. The penal law is amended by adding two new sections 145.75 and 145.80 to read as follows:

3 § 145.75 Unlawfully entering or remaining in a school or facility for4children for the purposes of voting in the second degree.

1. A person is guilty of unlawfully entering or remaining in a school or facility for children for the purposes of voting in the second degree, when being a level two or level three sex offender, he or she enters or remains in a school or facility for children for the purposes of casting a ballot or otherwise voting during any primary, general, special, school district or other election in which residents, registered or gualified voters are entitled to cast ballots.

2. For the purposes of this section: (a) "level two or level three sex 12 13 offender" shall mean a person registered or required to register under 14 section one hundred sixty-eight-f of the correction law who has received 15 a level two or level three designation pursuant to section one hundred sixty-eight-l of the correction law; and (b) "school or facility for 16 children" shall mean a building, structure, athletic playing field, 17 playground or land contained within the real property boundary line of a 18 19 public or private elementary, parochial, intermediate, junior high, 20 vocational, or high school, or any other facility or institution prima-21 rily used for the care or treatment of persons under the age of eighteen 22 while one or more of such persons under the age of eighteen are present. Unlawfully entering or remaining in a school or facility for children 23 24 for the purposes of voting in the second degree is a class A misdemea-25 nor.

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

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<ul> <li>children for the purposes of voting in the first degree.</li> <li>A person is quilty of unlawfully entering or remaining in a school or</li> <li>facility for children for the purposes of voting in the first degree</li> <li>when he or she commits the crime of unlawfully entering or remaining in</li> <li>a school or facility for children for the purposes of voting in the</li> <li>gecond degree, having previously been convicted of such orime within the</li> <li>preceding ten versa.</li> <li>Dhlawfully entering or remaining in a school or facility for children</li> <li>for the purposes of voting in the first degree is a class E felony.</li> <li>\$ 2. Paragraph (d) of subdivision 1 of section 8-400 of the election</li> <li>law, as amended by chapter 63 of the laws of 2010, is amended and a new</li> <li>paragraph (e) is added to read as follows:</li> <li>(d) absent from his or her voting residence because he or she is</li> <li>detained in jail awaiting action by a grand jury or awaiting trial, or</li> <li>of confined in jail or prison after a conviction for an offense other than</li> <li>a felony, provided that he or she is qualified to vote in the election</li> <li>district of his or her residence[*]; or</li> <li>(e) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"located on or within a school or facility for children as follows:</li> <li>(iv) detained in jail awaiting action by a grand jury or awaiting</li> <li>trial or confined in jail or prison after a conviction for an offense</li> <li>or confined in jail or prison after a conviction for an offense</li> <li>trial or confined in jail or prison after a conviction for an offense</li> <li>or onfined in</li></ul>	1	§ 145.80 Unlawfully entering or remaining in a school or facility for
4 facility for children for the purposes of voting in the first degree when he or she commits the orima of unlawfully entering or remaining in a school or facility for children for the purposes of voting in the percending ten years. 9 Unlawfully entering or remaining in a school or facility for children for the purposes of voting in the first degree is a class E felony. 11 § 2. Paragraph (d) of subdivision 1 of section 8-400 of the election law, as amended by chapter 63 of the laws of 2010, is amended and a new paragraph (e) is added to read as follows: (d) absent from his or her voting residence because he or she is detained in jail awaiting action by a grand jury or awaiting trial, or 16 confined in jail or prison after a conviction for an offense other than a felony, provided that he or she is qualified to vote in the election 18 district of his or her residence[+]_or (e) prohibited from appearing personally at the polling place of the election district in which he or she is a qualified voter because he or she is 1 located on or within a school or facility for children as the terms "level two and level three sex offender and such polling place is located and a new subparagraph (c) of subdivision 3 of section 8.400 of the election 145.75 of the penal law. 5 % 3. Subparagraph (i) of prison after a conviction for an offense of 2010, is amended and a new subparagraph (v) is added to read as follows: (i) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense of 2010, is amended and a new subparagraph (v) is added to read as follows: (ii) detained in jail or prison after a conviction for an offense of the selection district in which he or she is a qualified voter because he or she is a level two on level three sex offender and such polling place is located on or within a school or facility for children as the terms "level two and level three sex offender and such polling place is located		
5 when he or she commits the crime of unlawfully entering or remaining in a school or facility for children for the purposes of voting in the second degree, having previously been convicted of such crime within the preceding ten years. Unlawfully entering or remaining in a school or facility for children for the purposes of voting in the first degree is a class E felony. S 2. Paragraph (d) of subdivision 1 of section 8-400 of the election law, as amended by chapter 63 of the laws of 2010, is amended and a new paragraph (e) is added to read as follows: (d) absent from his or her voting residence because he or she is for confined in jail awaiting action by a grand jury or awaiting trial, or confined in jail or prison after a conviction for an offense other than a felony, provided that he or she is qualified to vote in the election district of his or her residence[+]; or (e) prohibited from appearing personally at the polling place is located on or within a school or facility for children as the terms "level two and level three sex offender and such polling place is s located on or within a school or facility for children as the terms "level two and level three sex offender and such polling place is (iv) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where he or she is so detained or confined[+]; or (j) prohibited from appearing personally at the polling place of the election district in which he or she is a qualified voter because he or she is a level two or level three sex offender and such polling place is located on or within a school or facility for children as the terms "tiv) detained in section 145.75 of the penal law. (s) prohibited from appearing personally at the polling place of the election district in which he or she is a qualified voter because he or she is a level two on level three sex offender and such polling place is located on or within a school or facility for childr		
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<ul> <li>17 a felony, provided that he or she is qualified to vote in the election</li> <li>18 district of his or her residence[+]; or</li> <li>(e) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"level two and level three sex offender" and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 3. Subparagraph (iv) of paragraph (c) of subdivision 3 of section</li> <li>8.400 of the election law, as amended by chapter 63 of the laws of 2010,</li> <li>ris amended and a new subparagraph (v) is added to read as follows:</li> <li>(iv) detained in jail awaiting action by a grand jury or awaiting</li> <li>trial or confined in jail or prison after a conviction for an offense</li> <li>other than a felony and stating the place where he or she is so detained</li> <li>or confined[+]; or</li> <li>(v) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 4. Section 8-400 of the election law is amended by adding a new</li> <li>subdivision 11 to read as follows:</li> <li>11. Sixty days before each election the board of elections shall</li> <li>comple a list of all level two and level three registered sex offenders</li> <li>entitled to receive absentee ballots pursuant to the provisions of this</li> <li>section. The board of elections shall, by mail addressed to such sex</li> <li>offender at his or her registered address, send an absentee ballot for</li> <li>the ensuing election to such person in the same manner as provided in</li> <li>because of illness or dirability.<th>15</th><td>detained in jail awaiting action by a grand jury or awaiting trial, or</td></li></ul>	15	detained in jail awaiting action by a grand jury or awaiting trial, or
<ul> <li>district of his or her residence[-]; or</li> <li>(e) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"level two and level three sex offender" and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 3. Subparagraph (iv) of paragraph (c) of subdivision 3 of section</li> <li>8-400 of the election law, as amended by chapter 63 of the laws of 2010,</li> <li>is amended and a new subparagraph (v) is added to read as follows:</li> <li>(iv) detained in jail or prison after a conviction for an offense</li> <li>other than a felony and stating the place where he or she is so detained</li> <li>or confined[-]; or</li> <li>(v) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"level two and level three sex offender" and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 4. Section 8-400 of the election law is amended by adding a new</li> <li>subdivision 11 to read as follows:</li> <li>11. Sixty days before each election the board of elections shall</li> <li>compile a list of all level two and level three registered sex offenders</li> <li>entitled to receive absentee ballots pursuant to the provisions of this</li> <li>section. The board of elections shall, by mail addressed to such sex</li> <li>offender at his or her registered address, send an absentee ballot for</li> <li>the ensuing election to such person in the same manner as provided in</li> <li>the souting forth (2018, paragraph as amended by</li></ul>	16	confined in jail or prison after a conviction for an offense other than
<ul> <li>(e) prohibited from appearing personally at the polling place of the election district in which he or she is a qualified voter because he or she is a level two or level three sex offender and such polling place is clocated on or within a school or facility for children as the terms "level two and level three sex offender" and "school or facility for children as the terms "level two and level three sex offender" and "school of facility for children" are defined in section 145.75 of the penal law.</li> <li>§ 3. Subparagraph (iv) of paragraph (c) of subdivision 3 of section 8-400 of the election law, as amended by chapter 63 of the laws of 2010, is amended and a new subparagraph (v) is added to read as follows:</li> <li>(iv) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where he or she is so detained or confined[+]; or</li> <li>(v) prohibited from appearing personally at the polling place is located on or within a school or facility for children as the terms "level two and level three sex offender and such polling place is located on or within a school or facility for children as the terms "level two and level three sex offender" and "school or facility for children at the terms as schoin 145.75 of the penal law.</li> <li>§ 4. Section 8-400 of the election law is amended by adding a new subvivision 11 to read as follows:</li> <li>11. Sixty days before each election the board of elections shall compile a list of all level two and level three sex, send an absentee ballot for the ensuing election for a qualified voter entitled to make the set offenders.</li> <li>§ 5. Subdivision 2 of section 2018-a of the education law, as added by chapter 219 of the laws of 1978, paragraphs a and b as amended by chapter 136 of the laws of 1979, paragraphs a and b as amended by chapter 136 of the laws of 1979, paragraph as amended by chapter 26 of the laws of 1991, paragraph cas a mended by chapter 2</li></ul>	17	a felony, provided that he or she is qualified to vote in the election
<ul> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"level two and level three sex offender" and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 3. Subparagraph (iv) of paragraph (c) of subdivision 3 of section</li> <li>8-400 of the election law, as amended by chapter 63 of the laws of 2010,</li> <li>is amended and a new subparagraph (v) is added to read as follows:</li> <li>(iv) detained in jail awaiting action by a grand jury or awaiting</li> <li>trial or confined in jail or prison after a conviction for an offense</li> <li>other than a felony and stating the place where he or she is so detained</li> <li>or confined[*]; or</li> <li>(v) prohibited from appearing personally at the polling place of the</li> <li>election district in which he or she is a qualified voter because he or</li> <li>she is a level two or level three sex offender and such polling place is</li> <li>located on or within a school or facility for children as the terms</li> <li>"level two and level three sex offender" and "school or facility for</li> <li>children" are defined in section 145.75 of the penal law.</li> <li>§ 4. Section 8-400 of the election law is amended by adding a new</li> <li>subdivision 11 to read as follows:</li> <li>11. Sixty days before each election the board of elections shall</li> <li>compile a list of all level two and level three registered sex offenders</li> <li>entitled to receive absentee ballots pursuant to the provisions of this</li> <li>section. The board of elections shall, by mail addressed to such sex</li> <li>offender at his or her registered address, send an absentee ballot for</li> <li>the ensuing election to such person in the same manner as provided in</li> <li>this section for a qualified voter entitled to an absentee ballot</li> <li>for the laws of 1991,</li></ul>	18	district of his or her residence[+]; or
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23 "level two and level three sex offender" and "school or facility for children" are defined in section 145.75 of the penal law. § 3. Subparagraph (iv) of paragraph (c) of subdivision 3 of section 8-400 of the election law, as amended by chapter 63 of the laws of 2010, is amended and a new subparagraph (v) is added to read as follows: (iv) detained in jail awaiting action by a grand jury or awaiting trial or confined in jail or prison after a conviction for an offense other than a felony and stating the place where he or she is so detained or confined[ $\tau$ ]; or (v) prohibited from appearing personally at the polling place of the election district in which he or she is a qualified voter because he or she is a level two or level three sex offender and such polling place is located on or within a school or facility for children as the terms "level two and level three sex offender" and "school or facility for children" are defined in section 145.75 of the penal law. § 4. Section 8-400 of the election haw is amended by adding a new subdivision 11 to read as follows: 11. Sixty days before each election the board of elections shall compile a list of all level two and level three registered sex offenders entitled to receive absentee ballots pursuant to the provisions of this section. The board of elections shall, by mail addressed to such sex 44 offender at his or her registered address, send an absentee ballot for the ensuing election to such person in the same manner as provided in this section for a qualified voter entitled to an absentee ballot 7 because of illness or disability. § 5. Subdivision 2 of section 2018-a of the education law, as added by 9 chapter 219 of the laws of 1978, paragraphs a and b as amended by chapter 13 amended to read as follows: 42 a. An applicant for such an absentee ballot shall submit an appli- 53 amended to read as follows: 54 2. a. An applicant for such an absentee ballot shall submit an appli- 55 cation setting forth (1) his <u>or her</u> name and residence	21	she is a level two or level three sex offender and such polling place is
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any; (2) that he or she is or will be, on the day of the school district 1 2 election, a qualified voter of the school district in which he or she 3 resides in that he or she is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have 4 5 resided in the district for thirty days next preceding such date; (3) б whether he or she is registered in the district; and (4) that he or she 7 will be unable to appear to vote in person on the day of the school 8 district election for which the absentee ballot is requested because he 9 or she is, or will be on such day (a) a patient in a hospital, or unable 10 to appear personally at the polling place on such day because of illness or physical disability [er]; (b) because his or her duties, occupation, 11 business, or studies will require him or her to be outside of the county 12 13 or city of his <u>or her</u> residence on such day $[-_{7}]$ ; (c) because he <u>or she</u> 14 will be on vacation outside the county or city of his or her residence on such day; [or, (d) absent from his voting residence because he or 15 16 she is detained in jail awaiting action by a grand jury or awaiting 17 trial or is confined in prison after conviction for an offense other 18 than a felony; or (e) prohibited from appearing personally at the poll-19 ing place of the election district in which he or she is a qualified 20 voter because he or she is a level two or level three sex offender and 21 such polling place is located on or within a school or facility for children as the terms "level two and level three sex offender" and 22 "school or facility for children" are defined in section 145.75 of the 23 24 <u>penal law</u>.

Such application must be received by the district clerk at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter.

b. (1) Where such duties, occupation, business, or studies are of such a nature as ordinarily to require such absence, a brief description of such duties, occupation, business, or studies shall be set forth in such application. (2) Where such duties, occupation, business, or studies are not of such a nature as ordinarily to require such absence, such application shall contain a statement of the special circumstances on account of which such absence is required.

36 c. Where the applicant expects in good faith to be absent on the day 37 of the election because he <u>or she</u> will be on vacation elsewhere on such 38 day, such application shall also contain the dates upon which he <u>or she</u> 39 expects to begin and end such vacation, the place or places where he <u>or</u> 40 <u>she</u> expects to be on such vacation, the name and address of his <u>or her</u> 41 employer, if any, and if self-employed or retired, a statement to that 42 effect.

d. Where the absence is because of detention or confinement to jail, 44 such application shall state whether the voter is detained awaiting 45 action of the grand jury or is confined after conviction for an offense 46 other than a felony.

47 e. Where the applicant indicates he or she is prohibited from appear-48 ing personally at the polling place of the election district in which he 49 or she is a qualified voter because he or she is a level two or level three sex offender and such polling place is located on or within a 50 51 school or facility for children as the terms "level two and level three sex offender" and "school or facility for children" are defined in 52 section 145.75 of the penal law such application shall state whether or 53 not the voter is currently under a sentence of imprisonment for a felony 54 55 or on parole.

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1 f. Where a person is or would be, if he or she were a qualified voter, 2 entitled to apply for the right to vote by absentee ballot under the 3 provisions of this section, his or her spouse, parent or child, if a 4 qualified voter and a resident of the same school district, shall be 5 entitled to vote as an absentee voter upon personally making and signing б an application in accordance with the preceding provisions of this 7 subdivision and showing that he or she expects to be absent from the 8 school district on the day of the school district election by reason of 9 accompanying or being with the spouse, child or parent who is or would 10 be, if he or she were a qualified voter, so entitled to apply for the 11 right to vote by absentee ballot, and, in the event no application is made by such spouse, child or parent, such further information as the 12 13 board of registration shall require.

14  $[f_{-}]$  g. Such application shall include the following statement to be 15 signed by the voter.

16 I hereby declare that the foregoing is a true statement to the best of 17 my knowledge and belief, and I understand that if I make any material 18 false statement in the foregoing statement of application for absentee 19 ballots, I shall be guilty of a misdemeanor.

20 Date.....Signature of Voter .....

21 [**g**-] **h**. An applicant whose ability to appear personally at the polling place of the school district of which he or she is a qualified voter is 22 23 substantially impaired by reason of permanent illness or physical disa-24 bility and whose registration record has been marked "permanently disa-25 bled" by the board of elections pursuant to the provisions of the election law shall be entitled to receive an absentee ballot pursuant to 26 27 the provisions of this section without making separate application for 28 such absentee ballot, and the board of registration upon being advised 29 by the board of elections on or with the list of registered voters that 30 the registration record of a voter is marked "permanently disabled" 31 shall send an absentee ballot to such voter at his or her last known 32 address with a request to the postal authorities not to forward same but 33 to return same in five days in the event that it cannot be delivered to 34 the addressee. The board of education shall determine whether such 35 ballot shall be sent by first class or by certified mail. All such 36 ballots shall be mailed in the same manner as determined by the board of 37 education. The board of registration shall make an appropriate entry on the registration indicating the fact that an absentee ballot has been 38 39 sent and the date of mailing.

40 § 6. Subdivision 2 of section 2018-b of the education law, as amended 41 by chapter 46 of the laws of 1992 and paragraph c as amended by chapter 42 26 of the laws of 1994, is amended to read as follows:

43 a. An applicant for such an absentee ballot shall submit an appli-2. 44 cation setting forth (1) his or her name and residence address, includ-45 ing the street and number, if any, or town and rural delivery route, if any; (2) that he or she is or will be, on the day of the school district 46 election, a qualified voter of the school district in which he or she 47 48 resides in that he or she is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have 49 50 resided in the district for thirty days next preceding such date; and 51 (3) that he or she will be unable to appear to vote in person on the day 52 of the school district election for which the absentee ballot is 53 requested because he or she is, or will be on such day (a) a patient in 54 a hospital, or unable to appear personally at the polling place on such

day because of illness or physical disability [<del>or</del>]; (b) because his <u>or</u> 1 2 her duties, occupation, business, or studies will require him or her to be outside of the county or city of his residence on such  $day[_{\tau}]_{:}$  (c) 3 because he or she will be on vacation outside the county or city of his 4 5 or her residence on such day; [er,] (d) absent from his or her voting б residence because he or she is detained in jail awaiting action by a 7 grand jury or awaiting trial or is confined in prison after conviction 8 for an offense other than a felony; or (e) prohibited from appearing 9 personally at the polling place of the election district in which he or 10 she is a qualified voter because he or she is a level two or level three 11 sex offender and such polling place is located on or within a school or facility for children as the terms "level two and level three sex offen-12 der" and "school or facility for children" are defined in section 145.75 13 14 of the penal law. 15 Such application must be received by the district clerk or designee of 16 the trustees or school board at least seven days before the election if 17 the ballot is to be mailed to the voter, or the day before the election, 18 if the ballot is to be delivered personally to the voter. 19 b. (1) Where such duties, occupation, business, or studies are of such 20 a nature as ordinarily to require such absence, a brief description of 21 such duties, occupation, business, or studies shall be set forth in such 22 application. (2) Where such duties, occupation, business, or studies are not of 23 such a nature as ordinarily to require such absence, such application 24 25 shall contain a statement of the special circumstances on account of 26 which such absence is required. 27 c. Where the applicant expects in good faith to be absent on the day of the election because he or she will be on vacation elsewhere on such 28 29 day, such application shall also contain the dates upon which he or she expects to begin and end such vacation, the place or places where he or 30 31 **she** expects to be on such vacation, the name and address of his or her 32 employer, if any, and if self-employed or retired, a statement to that 33 effect. 34 d. Where the absence is because of detention or confinement to jail, 35 such application shall state whether the voter is detained awaiting 36 action of the grand jury or is confined after conviction for an offense 37 other than a felony. 38 e. Where the applicant indicates that he or she is prohibited from appearing personally at the polling place of the election district in 39 which he or she is a qualified voter because he or she is a level two or 40 level three sex offender and such polling place is located on or within 41 42 a school or facility for children as the terms "level two and level three sex offender" and "school or facility for children" are defined in 43 44 section 145.75 of the penal law such application shall state whether or 45 not the voter is currently under a sentence of imprisonment for a felony 46 or on parole. 47 f. Where a person is or would be, if he or she were a qualified voter, entitled to apply for the right to vote by absentee ballot under the 48 provisions of this section, his or her spouse, parent or child, if a 49 50 qualified voter and a resident of the same school district, shall be 51 entitled to vote as an absentee voter upon personally making and signing 52 an application in accordance with the preceding provisions of this 53 subdivision and showing that he or she expects to be absent from the 54 school district on the day of the school district election by reason of 55 accompanying or being with the spouse, child or parent who is or would 56 be, if he or she were a qualified voter, so entitled to apply for the

1 right to vote by absentee ballot, and, in the event no application is 2 made by such spouse, child or parent, such further information as the 3 clerk of the school district or designee of the trustees or school board 4 shall require.

5  $[f_{-}]$  g. Such application shall include the following statement to be 6 signed by the voter.

7 I hereby declare that the foregoing is a true statement to the best of 8 my knowledge and belief, and I understand that if I make any material 9 false statement in the foregoing statement of application for absentee 10 ballots, I shall be guilty of a misdemeanor.

11 Date.....Signature of Voter .....

[g.] h. The clerk of the school district or a designee of the trustees 12 or school board shall request registration lists from the board of 13 14 elections pursuant to subdivision three of section 5-612 of the election 15 law for those voters whose registration record has been marked "perma-16 nently disabled". An applicant whose ability to appear personally at the 17 polling place of the school district of which he or she is a qualified 18 voter is substantially impaired by reason of permanent illness or phys-19 ical disability and whose registration record has been marked "perma-20 nently disabled" as determined by the board of elections pursuant to the provisions of this chapter and who has previously applied for an absen-21 22 tee ballot shall be entitled to receive subsequent absentee ballots 23 pursuant to the provisions of this section without making separate 24 application for such absentee ballot, and the clerk of the school district or a designee of the trustees or school board shall send an 25 26 absentee ballot to such voter at his or her last known address with a 27 request to the postal authorities not to forward same but to return same 28 in five days in the event that it cannot be delivered to the addressee. 29 The clerk of the school district or a designee of the trustees or school 30 board shall determine whether such ballot shall be sent by first class or by certified mail. All such ballots shall be mailed in the same 31 32 manner as determined by the trustees or the board of education. 33 § 7. The election law is amended by adding a new section 17-172 to 34 read as follows:

35 § 17-172. Immunity and defense for poll workers and others related to 36 admittance of sex offenders to polling places. 1. No person shall be 37 civilly liable for refusing admittance of a level two or level three sex 38 offender to a polling place which is or is within a school or facility for children as those terms are defined in section 145.75 of the penal 39 40 law, when such person is acting in good faith and in the performance of their duties. For the purposes of this section, a person shall be deemed 41 42 to be acting in good faith if the name and address or name and approxi-43 mate address based on zip code of the voter refused admission appears on 44 a list of level two or level three sex offenders provided by a board of 45 elections or the division of criminal justice services. 46 2. It shall be an affirmative defense to any charge of violating the elective franchise of a voter based upon the refusing of admittance of a 47

47 elective franchise of a voter based upon the refusing of admittance of a 48 level two or level three sex offender to a polling place which is or is 49 within a school or facility for children as those terms are defined in 50 section 145.75 of the penal law, that the name and address or name and 51 approximate address based on zip code of the voter refused admission 52 appears on a list of level two or level three sex offenders provided by 53 a board of elections or the division of criminal justice services.

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1 § 8. This act shall take effect immediately and shall apply to 2 elections held on and after January 1, 2020, provided that the state 3 board of elections shall be authorized to promulgate any rules, regu-4 lations, forms, or notices required to carry out the provisions of this 5 act prior to such effective date.