

# STATE OF NEW YORK

2955

2021-2022 Regular Sessions

## IN SENATE

January 26, 2021

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to providing protections against illegal voter purging

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

1 Section 1. Section 4-117 of the election law is amended by adding a  
2 new subdivision 4 to read as follows:

3 4. Any person, other than an election officer, who pays for, mails or  
4 causes to be mailed, any mail, where such person knows or reasonably  
5 should know that such mail: (a) is intended to be delivered to a regis-  
6 tered voter or voter registration applicant; and (b) may be used by a  
7 challenger, other than an election officer, to challenge the qualifica-  
8 tions of a voter, shall file with the state board of elections within  
9 two business days of such mailing, a duplicate copy of such mail, a  
10 duplicate copy of names and addresses to which such mail was sent, and a  
11 completed form prescribed by the state board of elections. Such form  
12 shall contain: the full name, residence and business address, and the  
13 name of the employer of the person who pays for, mails or causes to be  
14 mailed the mailing; the approximate number of pieces of such mail; and a  
15 statement certifying the accuracy of such duplicate copies and of the  
16 information contained in the complete form. The failure to comply with  
17 the provisions of this subdivision shall create a presumption that such  
18 mail shall not be used to challenge the qualifications of a voter.

19 § 2. Section 8-502 of the election law, as amended by chapter 373 of  
20 the laws of 1978, is amended to read as follows:

21 § 8-502. Challenges; generally. 1. Before his or her vote is cast at  
22 an election any person may be challenged as to his or her right to vote,  
23 in accordance with the provisions of this section, or his or her right  
24 to vote by absentee, military, special federal or special presidential  
25 ballot. Such challenge may be made by an inspector or clerk, by any duly

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

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1 appointed watcher, or by any registered voter properly in the polling  
2 place in accordance with the provisions of this section.

3 2. An inspector shall challenge every person offering to vote, whom he  
4 or she shall know or suspect is not entitled to vote in the district,  
5 and every person whose name appears on the list of persons to be chal-  
6 lenged on election day which is furnished by the board of elections.

7 3. Any person, other than an inspector or clerk, may challenge the  
8 qualifications of a voter only by completing, executing and delivering  
9 to the board of inspectors a challenge affidavit that satisfies the  
10 requirements of section 8-503 of this title.

11 § 3. The election law is amended by adding a new section 8-503 to  
12 read as follows:

13 § 8-503. Challenge affidavit. 1. The state board of elections shall  
14 prescribe the content and form of a challenge affidavit for use at any  
15 general, special, town or village election and at any primary election.  
16 Such affidavit shall contain the affiant's full name, residence and  
17 business address, the name of his or her employer, the registration  
18 serial number of the person challenged and a recital of the reasons and  
19 the facts supporting the affiant's belief that the person challenged  
20 lacks one or more of the qualifications for voting prescribed in section  
21 5-102 or 5-106 of this chapter and specified in such affidavit. The  
22 affidavit shall state if the reason for challenge are based upon the  
23 affiant's personal knowledge or upon information received from another  
24 person. If the affiant's belief is based upon information furnished by  
25 another, the affidavit shall recite the name of the person furnishing  
26 the information and the basis for his or her information. After the  
27 affiant has filed such affidavit, an inspector from each major party  
28 shall read to him or her and request him or her to sign the following  
29 oath which shall be subscribed by such affiant: "I do solemnly swear (or  
30 affirm) that I am a qualified voter of the city or county in which this  
31 affidavit is signed and that the foregoing statement made by me on  
32 (insert day, month and year) is a truthful disclosure of the reasons for  
33 my belief that the registered voter therein named is not qualified to  
34 vote in the election district in which he or she is now registered." If  
35 the affiant shall take and sign such oath, an inspector shall sign his  
36 or her name as a witness below the affiant's subscription to such oath.  
37 An inspector may request state-issued identification to affirm the iden-  
38 tity of the challenger. Each challenge affidavit shall only challenge  
39 the qualifications of one voter.

40 2. The boards of elections shall make challenge affidavit forms avail-  
41 able to all qualified voters.

42 § 4. Subdivision 2 of section 8-504 of the election law, as renumbered  
43 by chapter 373 of the laws of 1978, is amended to read as follows:

44 2. (a) If the applicant shall take the preliminary oath, the inspector  
45 shall ask the applicant [~~such~~] the following questions as [~~may~~] they  
46 pertain to the reason his or her right to vote at such election in such  
47 district was challenged[~~-~~]:

48 Are you eighteen years of age or older?

49 Are you a citizen of the United States?

50 Have you been a resident of this state and of this county (and the  
51 City of New York or village, as applicable) for the past thirty days or  
52 more?

53 Do you swear that you have not already voted at this election?

54 (b) If any applicant shall refuse to answer fully any of the questions  
55 [~~which may be put to him~~] in this subdivision, he or she shall not be  
56 permitted to vote.

1 § 5. Section 8-504 of the election law is amended by adding a new  
2 subdivision 9 to read as follows:

3 9. Information concerning the citizenship status of individuals, when  
4 collected and transmitted pursuant to this section, shall not be  
5 retained, used or shared for any other purpose except as may be required  
6 by law. A failure to certify that an individual is a citizen of the  
7 United States shall be considered an innocent error. Such person failing  
8 to certify United States citizenship shall not be considered as attempt-  
9 ing to register to vote.

10 § 6. Paragraphs (b) and (e) of subdivision 2 of section 8-508 of the  
11 election law, as amended by section 11 of part XX of chapter 55 of the  
12 laws of 2019, are amended to read as follows:

13 (b) The second section of such report shall be reserved for the board  
14 of inspectors to enter the name, address and registration serial number  
15 of each person who is challenged at the time of voting together with the  
16 reason for the challenge, the name and address of the person challenging  
17 the qualifications of such voter, if such person challenging the quali-  
18 fications is not an inspector or clerk, and the words "Permitted to  
19 Vote" or "Refused to take oath". If no voters are challenged, the board  
20 of inspectors shall enter the words "No Challenges" across the space  
21 reserved for such names. In lieu of preparing section two of the chal-  
22 lenge report, the board of elections may provide, next to the name of  
23 each voter in the computer generated registration list, a place for the  
24 inspectors of election to record the information required to be entered  
25 in such section two, or provide elsewhere in such registration list, a  
26 place for the inspectors of election to enter such information.

27 (e) At the foot of such report or at the end of any such computer  
28 generated registration list, if applicable, shall be a certificate that  
29 such report or list contains the names of all persons who were chal-  
30 lenged on the day of election, [and] the reason for such challenge and  
31 the names and addresses of all challengers who are not inspectors or  
32 clerks that each voter so reported as having been challenged took the  
33 oaths as required, that such report or list contains the names of all  
34 voters to whom such board gave or allowed assistance and lists the  
35 nature of the disability which required such assistance to be given and  
36 the names and family relationship, if any, to the voter of the persons  
37 by whom such assistance was rendered; that each such assisted voter  
38 informed such board under oath that he required such assistance and that  
39 each person rendering such assistance took the required oath; that such  
40 report or list contains the names of all voters who were permitted to  
41 vote although their registration poll records were missing; that the  
42 entries made by such board are a true and accurate record of its  
43 proceedings with respect to the persons named in such report or list.

44 § 7. Subdivision 3 of section 8-510 of the election law, as amended by  
45 section 12 of part XX of chapter 55 of the laws of 2019, is amended to  
46 read as follows:

47 3. The inspectors shall place such completed report, each challenge  
48 affidavit and each court order, if any, directing that a person be  
49 permitted to vote, in the secure container provided by the county board  
50 of elections for such ledger of registration records or computer gener-  
51 ated registration lists and then shall close and seal each ledger of  
52 registration records or computer generated registration lists, lock such  
53 ledger in the carrying case furnished for that purpose and enclose the  
54 keys in a sealed package or seal such list in the envelope provided for  
55 that purpose.

1     § 8. Subdivisions 1 and 2 of section 17-108 of the election law, as  
2 amended by chapter 373 of the laws of 1978, are amended to read as  
3 follows:

4     1. Any person who wilfully loses, alters, destroys or mutilates the  
5 list of voters or registration poll ledgers, a challenge affidavit, or a  
6 challenge report in any election district, or a certified copy thereof,  
7 is guilty of a misdemeanor.

8     2. An applicant for registration who shall make, incorporate or cause  
9 to be incorporated a material false statement in an application for  
10 registration, or in any challenge or other affidavit required for or  
11 made or filed in connection with registration or voting, and any person  
12 who knowingly takes a false oath before a board of inspectors of  
13 election, and any person who makes a material false statement in a  
14 medical certificate, a challenge affidavit or an affidavit filed in  
15 connection with an application for registration, is guilty of a misde-  
16 meanor.

17     § 9. This act shall take effect January 1, 2022.