STATE OF NEW YORK

1658

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. CARROLL, BICHOTTE HERMELYN, COLTON, DINOWITZ, NIOU, PHEFFER AMATO, RICHARDSON, JONES -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to application for an absentee ballot

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

Section 1. Subdivision 1, the opening paragraph of subdivision 2 and paragraphs (c) and (d) of subdivision 3 of section 8-400 of the election law, subdivision 1 as amended by chapter 139 of the laws of 2020, the opening paragraph of subdivision 2 as amended by chapter 216 of the laws of 1988, paragraphs (c) and (d) of subdivision 3 as amended by chapter 63 of the laws of 2010 and subparagraph (iii) of paragraph (c) of subdivision 3 as amended by chapter 375 of the laws of 2015, are amended to read as follows:

1. A qualified voter may vote as an absentee voter under this chapter if[~~, on the occurrence of any village election conducted by the board of elections, primary election, special election, general election or New York city community school board district or city of Buffalo school district election,~~] he or she expects to be[~~:~~

~~(a) absent from the county of his or her residence, or, if a resident of the city of New York absent from said city; or~~

~~(b) unable to appear personally at the polling place of the election district in which he or she is a qualified voter because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital, provided that, for purposes of this paragraph, "illness" shall include, but not be limited to, instances where a voter is unable to appear personally at the polling place of the election district in which they are a qualified voter~~

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

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~~because there is a risk of contracting or spreading a disease that may cause illness to the voter or to other members of the public; or~~

~~(c) a resident or patient of a veterans health administration hospital; or~~

~~(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 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~~] **unable to vote in person due to any reason**.

A qualified voter desiring to vote [~~at such election~~] as an absentee voter for any reason [~~specified in subdivision one hereof~~] must make application for an absentee ballot on a form to be obtained and filed as provided herein or by letter as provided in paragraph (d) of this subdivision.

(c) [~~A statement, as appropriate, that on the day of such election the applicant expects in good faith to be in one of the following categories:~~

~~(i) absent from the county of his or her residence, or if a resident of the city of New York absent from said city; provided, however, if the applicant expects to be absent from such county or city for a duration covering more than one election and seeks an absentee ballot for each election, he or she shall state the dates when he or she expects to begin and end such absence; or~~

~~(ii) unable to appear at a polling place because of illness or physical disability or duties related to the primary care of one or more individuals who are ill or physically disabled; or~~

~~(iii) a resident or patient of a veterans health administration hospital; or~~

~~(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.~~

~~(d)~~] Such application shall permit the applicant to apply for an absentee ballot for either a primary election or the general election in any year and for those persons who will be continuously absent from their county of residence during the period between the fall primary election and the general election in any year to apply for ballots for both such elections in such year. A voter who applies for an absentee ballot shall be sent an absentee ballot for any special election or winter primary that occurs during the period of absence specified in the application.

§ 2. Subdivision 1 of section 8-400 of the election law, as amended by chapter 63 of the laws of 2010 and paragraph (c) as amended by chapter 375 of the laws of 2015, is amended to read as follows:

1. A qualified voter may vote as an absentee voter under this chapter if[~~, on the occurrence of any village election conducted by the board of elections, primary election, special election, general election or New York city community school board district or city of Buffalo school district election,~~] he or she expects to be[~~:~~

~~(a) absent from the county of his or her residence, or, if a resident of the city of New York absent from said city; or~~

~~(b) unable to appear personally at the polling place of the election district in which he or she is a qualified voter because of illness or physical disability or duties related to the primary care of one or more~~

~~individuals who are ill or physically disabled, or because he or she will be or is a patient in a hospital; or~~

~~(c) a resident or patient of a veterans health administration hospital; or~~

~~(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 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~~] **unable to vote in person due to any reason**.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law; provided, that the amendments to subdivision 1 of section 8-400 of the election law made by section one of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 139 of the laws of 2020, as amended, when upon such date the provisions of section two of this act shall take effect.