

STATE OF NEW YORK

5360

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. BARRON -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the correction law, in relation to enabling persons charged with or convicted of a crime to register to vote and to vote; to repeal subdivision 5 of section 8-504 of the election law relating to voter challenges at polling places; to repeal subdivisions 10 of section 1057-a of the New York city charter relating to notice of voter rights; and to amend the New York city charter, in relation to making conforming changes

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

1 Section 1. The election law is amended by adding a new section 8-409
2 to read as follows:

3 § 8-409. Voting by incarcerated persons. 1. Any person incarcerated
4 in a state or local correctional facility, as defined in section two of
5 the correction law, shall be entitled to vote by absentee ballot as
6 provided in section seventy-five of the correction law.

7 2. All ballots cast pursuant to this section and section seventy-five
8 of the correction law shall be cast in the manner provided by this chap-
9 ter for the casting of absentee ballots.

10 3. All ballots cast pursuant to the provisions of this section and
11 section seventy-five of the correction law which are received before
12 the close of the polls on election day by the board of elections charged
13 with the duty of casting and canvassing such ballots, may be
14 delivered to the inspectors of election in the manner prescribed by this
15 chapter or retained at the board of elections and cast and canvassed
16 pursuant to the provisions of section 9-209 of this chapter.

17 § 2. Section 75 of the correction law, as amended by section 18 of
18 subpart A of part C of chapter 62 of the laws of 2011, is amended to
19 read as follows:

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

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1 § 75. ~~[Notice of voting]~~ Voting rights. 1. Upon the ~~[discharge from]~~
2 admission of an inmate to a state or local correctional facility ~~[of any~~
3 ~~person whose maximum sentence of imprisonment has expired or upon a~~
4 ~~person's discharge from community supervision,~~ the department shall
5 notify such ~~[person]~~ inmate of his or her right to vote and, upon the
6 request of such inmate, provide such ~~[person]~~ inmate with a form of
7 application for voter registration together with written information
8 distributed by the board of elections on the importance and the mechan-
9 ics of voting, or with access to the electronic voter registration
10 transmittal system described in title five of article 8 of the election
11 law. The superintendent of the correctional facility shall ensure that
12 all completed voter registrations are:

13 (a) properly and immediately submitted electronically to the applica-
14 ble board of elections if the electronic voter registration transmittal
15 system is utilized; or

16 (b) deposited with the United States Post Office within three days of
17 being filled out by an inmate if registration is submitted on paper.

18 2. Each inmate who is qualified to vote and registered to vote may
19 apply to his or her county board of elections for an absentee ballot in
20 the manner provided for by the mail provisions of section 8-400 of the
21 election law. There shall be a presumption that inmates are qualified
22 to vote and registered to vote. The superintendent of the correctional
23 facility shall ensure that each such application for an absentee ballot
24 is deposited with the United States Post Office within three days of
25 being filled out by an inmate.

26 3. Each absentee ballot received at the correctional facility shall be
27 delivered to the inmate to whom it is addressed within two days of
28 receipt at the correctional facility. The superintendent of the correc-
29 tional facility shall ensure that each absentee ballot is deposited with
30 the United States Post Office within three days of being filled out by
31 the inmate to whom it has been addressed.

32 4. Voter registrations, applications for absentee ballots and absen-
33 tee ballots shall be processed by the correctional facility separately
34 from other inmate mail. Notwithstanding any law, rule or regulation to
35 the contrary, no person shall open any correspondence between an inmate
36 and a board of elections, including an inmate's voter registration,
37 application for an absentee ballot or filled out absentee ballot.
38 Inmates shall be permitted to cast their votes privately and to seal all
39 envelopes associated with an absentee ballot without interference.

40 § 3. Section 5-106 of the election law, subdivision 2 as amended by
41 chapter 373 of the laws of 1978, subdivision 5 as amended by chapter 234
42 of the laws of 1976 and subdivision 6 as amended by chapter 82 of the
43 laws of 1982, is amended to read as follows:

44 § 5-106. Qualifications of voters; reasons for exclusion.

45 1. No person who shall receive, accept, or offer to receive, or pay,
46 offer or promise to pay, contribute, offer or promise to contribute to
47 another, to be paid or used, any money or any other valuable thing as a
48 compensation or reward for the giving or withholding a vote at an
49 election, or for registering or refraining from registering as a voter,
50 or who shall make any promise to influence the giving or withholding of
51 any such vote or registration, or who shall make or become directly or
52 indirectly interested in any bet or wager depending upon the result of
53 an election, shall vote at such election.

54 2. ~~[No person who has been convicted of a felony pursuant to the laws~~
55 ~~of this state, shall have the right to register for or vote at any~~
56 ~~election unless he shall have been pardoned or restored to the rights of~~

~~1 citizenship by the governor, or his maximum sentence of imprisonment has
2 expired, or he has been discharged from parole. The governor, however,
3 may attach as a condition to any such pardon a provision that any such
4 person shall not have the right of suffrage until it shall have been
5 separately restored to him.~~

~~6 3. No person who has been convicted in a federal court, of a felony,
7 or a crime or offense which would constitute a felony under the laws of
8 this state, shall have the right to register for or vote at any election
9 unless he shall have been pardoned or restored to the rights of citizen-
10 ship by the president of the United States, or his maximum sentence of
11 imprisonment has expired, or he has been discharged from parole.~~

~~12 4. No person who has been convicted in another state for a crime or
13 offense which would constitute a felony under the laws of this state
14 shall have the right to register for or vote at any election in this
15 state unless he shall have been pardoned or restored to the rights of
16 citizenship by the governor or other appropriate authority of such other
17 state, or his maximum sentence has expired, or he has been discharged
18 from parole.~~

~~19 5. The provisions of subdivisions two, three and four of this section
20 shall not apply if the person so convicted is not sentenced to either
21 death or imprisonment, or if the execution of a sentence of imprisonment
22 is suspended.~~

~~23 6.]~~ No person who has been adjudged incompetent by order of a court of
24 competent judicial authority shall have the right to register for or
25 vote at any election in this state unless thereafter he shall have been
26 adjudged competent pursuant to law.

§ 4. Subdivision 3 of section 5-210 of the election law, as amended by
28 chapter 255 of the laws of 2015, is amended to read as follows:

3. Completed application forms, when received by any board of
30 elections and, with respect to application forms promulgated by the
31 federal election commission, when received by the state board of
32 elections, or showing a dated cancellation mark of the United States
33 Postal Service or contained in an envelope showing such a dated cancel-
34 lation mark which is not later than the twenty-fifth day before the next
35 ensuing primary, general or special election, and received no later than
36 the twentieth day before such election, or delivered in person to such
37 board of elections not later than the tenth day before a special
38 election, shall entitle the applicant to vote in such election, if he or
39 she is otherwise qualified, provided, however, such applicant shall not
40 vote on a voting machine until his or her identity is verified. Any
41 board of elections receiving an application form from a person who does
42 not reside in its jurisdiction but who does reside elsewhere in the
43 state of New York, shall forthwith forward such application form to the
44 proper board of elections; provided, however, that the residence of a
45 person incarcerated in a correctional facility, as defined in section
46 two of the correction law, or in a county jail, is not included in the
47 jurisdiction where a person is incarcerated unless such person had
48 resided in that jurisdiction prior to incarceration, and any such person
49 may apply to register to vote in the jurisdiction where that person has
50 previously established a fixed and principal home to which the person
51 intends to return. Each board of elections shall make an entry on each
52 such form of the date it is received by such board.

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

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

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

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

7 ~~(e)~~] Has been adjudicated an incompetent.

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

9 [~~(e)~~] (d) Has died.

10 [~~(f)~~] (e) Did not vote in any election conducted by the board of
 11 elections during the period ending with the second general election at
 12 which candidates for federal office are on the ballot after his or her
 13 name was placed in inactive status and for whom the board of elections
 14 did not, during such period, in any other way, receive any information
 15 that such voter still resides in the same county or city.

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

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

20 § 6. Paragraph b of subdivision 4 of section 5-708 of the election
 21 law, as added by chapter 659 of the laws of 1994, is amended to read as
 22 follows:

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

28 § 7. Subdivision 3 of section 7-123 of the election law, as amended by
 29 chapter 104 of the laws of 2010, and the opening paragraph as amended by
 30 chapter 411 of the laws of 2019, is amended to read as follows:

31 3. There shall be three envelopes for each military absentee ballot
 32 issued when the military voter's preferred method of transmission is by
 33 mail: the inner affirmation envelope into which a voter places his or
 34 her voted ballot, the outer envelope which shall be addressed to the
 35 absentee voter, and the mailing envelope which is addressed to the coun-
 36 ty board of elections. The board of elections shall furnish an inner
 37 affirmation envelope with each military ballot upon which envelope shall
 38 be printed:

39 BALLOT FOR MILITARY VOTER
 40 AFFIRMATION

41 I swear or affirm that:

42 (a) I am a member of the uniformed services or merchant marine on
 43 active duty or an eligible spouse, parent, child or dependent of such a
 44 member, and

45 (b) I am a United States citizen, at least eighteen years of age (or
 46 will be by the day of the election), eligible to vote in the requested
 47 jurisdiction, and

48 (c) I have [~~neither been convicted of a felony or other disqualifying~~
 49 ~~offense nor~~] not been adjudicated mentally incompetent, or if so, my
 50 voting rights have been reinstated, and

51 (d) I am not registering, requesting a ballot, or voting in any other
 52 jurisdiction in the United States, and

53 (e) My signature and date below indicate when I completed this docu-
 54 ment, and

1 (f) The information on this form is true and complete to the best of
2 my knowledge.

3 I understand that a material misstatement of fact in the completion of
4 this document may constitute grounds for conviction of a crime.

5 Date 20....

6
7 Signature or mark of voter
8
9 Signature of Witness (required
10 only if voter does not sign his
11 or her own name)
12
13 Address of Witness

14 § 8. Subdivision 2 of section 7-124 of the election law, as amended by
15 chapter 104 of the laws of 2010, and the opening and closing paragraphs
16 as amended by chapter 411 of the laws of 2019, is amended to read as
17 follows:

18 2. There shall be three envelopes for each special federal absentee
19 ballot issued by mail: the inner affirmation envelope into which a voter
20 places his or her voted ballot, the outer envelope which shall be
21 addressed to the absentee voter, and the mailing envelope which is
22 addressed to the county board of elections. The board of elections shall
23 furnish an inner affirmation envelope with each special federal ballot
24 upon which envelope shall be printed:

25 I swear or affirm that:

26 (a) I am a United States citizen residing outside the United States,
27 and

28 (b) I am at least eighteen years of age (or will be by the day of the
29 election), eligible to vote in the requested jurisdiction, and

30 (c) I have [~~neither been convicted of a felony or other disqualifying~~
31 ~~offense nor~~ not been adjudicated mentally incompetent, or if so, my
32 voting rights have been reinstated, and

33 (d) I am not qualified to register, request a ballot, or vote in any
34 other jurisdiction in the United States, and

35 (e) My signature and date below indicate when I completed this docu-
36 ment, and

37 (f) The information on this form is true and complete to the best of
38 my knowledge.

39 I understand that a material misstatement of fact in the completion of
40 this document may constitute grounds for conviction of a crime.

41 Date.....20....

42
Signature or mark of voter
43
44 Signature of Witness (required only
45 if voter does not sign his or her own
46 name)
47
48 Address of Witness

1 § 9. Paragraph (d) of subdivision 1 of section 8-400 of the election
2 law, as amended by chapter 139 of the laws of 2020, is amended to read
3 as follows:

4 (d) absent from his or her voting residence because he or she is
5 detained in jail awaiting action by a grand jury or awaiting trial, or
6 confined in jail or prison after a conviction [~~for an offense other than~~
7 ~~a felony~~], provided that he or she is qualified to vote in the election
8 district of his or her residence.

9 § 10. Paragraph (d) of subdivision 1 of section 8-400 of the election
10 law, as amended by chapter 63 of the laws of 2010, is amended to read as
11 follows:

12 (d) absent from his or her voting residence because he or she is
13 detained in jail awaiting action by a grand jury or awaiting trial, or
14 confined in jail or prison after a conviction [~~for an offense other than~~
15 ~~a felony~~], provided that he or she is qualified to vote in the election
16 district of his or her residence.

17 § 11. Subparagraph (iv) of paragraph (c) of subdivision 3 of section
18 8-400 of the election law, as amended by chapter 63 of the laws of
19 2010, is amended to read as follows:

20 (iv) detained in jail awaiting action by a grand jury or awaiting
21 trial or confined in jail or prison after a conviction [~~for an offense~~
22 ~~other than a felony~~] and stating the place where he or she is so
23 detained or confined.

24 § 12. Subdivision 5 of section 8-504 of the election law is REPEALED.

25 § 13. Paragraph (d) of subdivision 1 and subparagraph (iv) of para-
26 graph (c) of subdivision 4 of section 15-120 of the election law, as
27 added by chapter 289 of the laws of 2014, are amended to read as
28 follows:

29 (d) absent from his or her voting residence because he or she is
30 detained in jail awaiting action by a grand jury or awaiting trial, or
31 confined in jail or prison [~~after a conviction for an offense other than~~
32 ~~a felony~~], provided that he or she is qualified to vote in the election
33 district of his or her residence.

34 (iv) detained in jail awaiting action by a grand jury or awaiting
35 trial or confined in jail or prison [~~after a conviction for an offense~~
36 ~~other than a felony~~] and stating the place where he or she is so
37 detained or confined.

38 § 14. Subdivisions 10 of section 1057-a of the New York city charter
39 are REPEALED.

40 § 15. The opening paragraph of section 1057-a of the New York city
41 charter, as amended by local law number 80 of the city of New York for
42 the year 2020, is amended to read as follows:

43 Each agency designated as a participating agency under the provisions
44 of this section shall implement and administer a program of distribution
45 of voter registration forms pursuant to the provisions of this section.
46 The following offices are hereby designated as participating voter
47 registration agencies: The administration for children's services, the
48 business integrity commission, the city clerk, the civilian complaint
49 review board, the commission on human rights, community boards, the
50 department of small business services, the department for the aging, the
51 department of citywide administrative services, the department of city
52 planning, the department of consumer and worker protection, the depart-
53 ment of correction, the department of cultural affairs, the department
54 of environmental protection, the department of finance, the department
55 of health and mental hygiene, the department of homeless services, the
56 department of housing preservation and development, the department of

1 parks and recreation, the department of probation, the department of
2 records and information services, the taxi and limousine commission, the
3 department of transportation, the department of youth and community
4 development, the fire department, and the human resources adminis-
5 tration. Participating agencies shall include a mandate in all new or
6 renewed agreements with those subcontractors having regular contact with
7 the public in the daily administration of their business to follow the
8 guidelines of this section. Such participating agencies shall be
9 required to offer voter registration forms to all persons together with
10 written applications for services, renewal or recertification for
11 services and change of address relating to such services, in the same
12 language as such application, renewal, recertification or change of
13 address form where practicable; provided however that this section shall
14 not apply to services that must be provided to prevent actual or poten-
15 tial danger to the life, health, or safety of any individual or of the
16 public. Such agencies shall provide assistance to applicants in complet-
17 ing voter registration forms, including the section of the form allowing
18 for registration to become an organ donor, and in cases in which such an
19 agency would provide assistance with its own form, such agency shall
20 provide the same degree of assistance with regard to the voter registra-
21 tion and organ donor forms as is provided with regard to the completion
22 of its own form, if so requested. ~~[As part of such assistance, such~~
23 ~~agencies shall also, upon request by an applicant who identifies himself~~
24 ~~or herself as being on parole and when practically feasible, check~~
25 ~~publicly available information to inform such applicant if a restoration~~
26 ~~of their right to vote has been granted, provided that such assistance~~
27 ~~may be provided by a person other than the person to whom the request~~
28 ~~was made and further provided that such assistance shall not be consid-~~
29 ~~ered an endorsement of the accuracy of any publicly available informa-~~
30 ~~tion not maintained by the city.]~~ Such agencies shall also receive and
31 transmit the completed application form from any applicants who request
32 to have such form transmitted to the board of elections for the city of
33 New York.

34 § 16. The state board of elections is directed to revise all paperwork
35 utilized for voter registration, and for the process of applying for and
36 voting by absentee ballot to remove all references to felonies or the
37 limitation of the right to vote due to conviction of a felony.

38 § 17. This act shall take effect on the first of January next succeed-
39 ing the date on which it shall have become a law; provided, however,
40 that the amendments to paragraph (d) of subdivision 1 of section 8-400
41 of the election law made by section nine of this act shall be subject to
42 the expiration and reversion of such paragraph pursuant to section 2 of
43 chapter 139 of the laws of 2020, as amended, when upon such date the
44 provisions of section ten shall take effect. Effective immediately, the
45 addition, amendment and/or repeal of any rule or regulation necessary
46 for the implementation of this act on its effective date are authorized
47 to be made and completed on or before such date.