

# 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.

LBD09533-01-1

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:

29 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.