STATE OF NEW YORK

3999

2023-2024 Regular Sessions

IN ASSEMBLY

February 8, 2023

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

AN ACT to amend the election law and the correction law, in relation to authorizing voting by incarcerated individuals in correctional facilities; and to repeal certain provisions of the election law relating thereto

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

Section 1. Section 5-104 of the election law is amended by adding a new subdivision 1-a to read as follows:

1-a. An incarcerated individual voting while incarcerated in a state or local correctional facility shall be considered a resident of the county, city, town and/or village he or she resided in prior to his or her incarceration.

§ 2. Subdivisions 2, 3, 4 and 5 of section 5-106 of the election law are REPEALED and subdivision 6 is renumbered subdivision 2.

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

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

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

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

~~(c)~~] Has been adjudicated an incompetent.

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

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

[~~(f)~~] **(e)** Did not vote in any election conducted by the board of elections during the period ending with the second general election at

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

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which candidates for federal office are on the ballot after his **or her** name was placed in inactive status and for whom the board of elections did not, during such period, in any other way, receive any information that such voter still resides in the same county or city.

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

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

1-a. A voter's registration shall not be cancelled while he or she is incarcerated in a state or local correctional facility.

§ 4. Subdivision 2 of section 5-708 of the election law is REPEALED and subdivisions 3, 4, 5, 6 and 7, subdivision 3 as renumbered by chapter 659 of the laws of 1994, are renumbered subdivisions 2, 3, 4, 5 and 6.

§ 5. Subdivision 3 of section 5-708 of the election law, as amended by chapter 659 of the laws of 1994 and as renumbered by section four of this act, paragraph a as amended by chapter 200 of the laws of 1996, is amended to read as follows:

3. a. If a board of elections receives any notices pursuant to the provisions of [~~subdivisions~~] **subdivision** two [~~and three~~] of this section which set forth a residence address outside of the city or county of such board's jurisdiction, it shall, at least once a month, transmit such notices to the appropriate board of elections, or, if such address is outside the state, to the state board of elections.

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

c. If any such notices, or names received pursuant to the other provisions of this section, set forth a residence address outside New York state, the state board shall transmit such notices to the chief state election official of such state at such times and in such manner as it deems appropriate.

§ 6. Section 75 of the correction law, as amended by chapter 103 of the laws of 2021, is amended to read as follows:

§ 75. Notice of voting rights. **1. The department, in collaboration with the state and county boards of election, shall establish a program to facilitate incarcerated individuals voter registration and voting. Such program shall include access and assistance with voter registration forms and a mechanism for voting, including, but not limited to, absentee ballots.**

2. Prior to the release from a correctional facility of any person the department shall [~~notify such person verbally and in writing, that his or her voting rights will be restored upon release and~~] provide such person with a form of application for voter registration and a declination form, offer such person assistance in filling out the appropriate form, and provide such person written information distributed by the board of elections on the importance and the mechanics of voting. Upon release, such person may choose to either submit his or her completed application to the state board or county board where such person resides or have the department transmit it on his or her behalf. Where such person chooses to have the department transmit the application, the department shall transmit the completed application upon such person's release to the state board or county board where such person resides.

§ 7. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.