

# 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:

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

3 1-a. An incarcerated individual voting while incarcerated in a state  
4 or local correctional facility shall be considered a resident of the  
5 county, city, town and/or village he or she resided in prior to his or  
6 her incarceration.

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8 are REPEALED and subdivision 6 is renumbered subdivision 2.

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

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

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

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

19 ~~(e)~~ Has been adjudicated an incompetent.

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

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

22 [~~(f)~~ (e)] Did not vote in any election conducted by the board of  
23 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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1 which candidates for federal office are on the ballot after his or her  
2 name was placed in inactive status and for whom the board of elections  
3 did not, during such period, in any other way, receive any information  
4 that such voter still resides in the same county or city.

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

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

9 1-a. A voter's registration shall not be cancelled while he or she is  
10 incarcerated in a state or local correctional facility.

11 § 4. Subdivision 2 of section 5-708 of the election law is REPEALED  
12 and subdivisions 3, 4, 5, 6 and 7, subdivision 3 as renumbered by chap-  
13 ter 659 of the laws of 1994, are renumbered subdivisions 2, 3, 4, 5 and  
14 6.

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

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

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

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

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

37 § 75. Notice of voting rights. 1. The department, in collaboration  
38 with the state and county boards of election, shall establish a program  
39 to facilitate incarcerated individuals voter registration and voting.  
40 Such program shall include access and assistance with voter registration  
41 forms and a mechanism for voting, including, but not limited to, absen-  
42 tee ballots.

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

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