STATE OF NEW YORK

7229

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to absentee ballots for school district elections

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

Section 1. Paragraphs a and c of subdivision 2 of section 2018-a of the education law, as amended by chapter 616 of the laws of 2019, are amended to read as follows:

a. A qualified voter may vote as an absentee voter under this section if [~~during all the hours of voting~~] on the [~~day~~] **occurrence** of an election he or she [~~will~~] **expects to** be:

(1) absent from the county of his or her residence; or

(2) unable to appear **personally** at the 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 because he or she will be or is a patient in a hospital; or

(3) [~~an inmate~~] **a resident** or patient of a veteran's administration hospital; or

(4) 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**; or**

(5) unable to be present due to his or her observance of a religious commitment or following his or her religious teaching or tenet that forbids secular activity on that day.

c. The application for an absentee ballot when filed must contain in each instance the following information:

(1) Applicant's full name, date of birth, and residence address, including the street and number, if any, rural delivery route, if any,

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

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mailing address if different from the residence address and an address to which the ballot shall be mailed.

(2) A statement that the applicant is a qualified and registered voter.

(3) 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:

(a) absent from the county of his or her residence; provided, however, if the applicant expects to be absent from such county 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

(b) 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

(c) [~~an inmate~~] **a resident** or patient of a veteran's administration hospital; or

(d) 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**; or**

(e) unable to be present due to his or her observance of a religious commitment or following his or her religious teaching or tenet that forbids secular activity on that day.

§ 2. Subdivision 2 of section 2018-b of the education law, as amended by chapter 46 of the laws of 1992, paragraph c as amended by chapter 26 of the laws of 1994, is amended to read as follows:

2. a. An applicant for such an absentee ballot shall submit an application setting forth**:**

(1) his **or her full** name**, date of birth** and residence address, including the street and number, if any, or town and rural delivery route, if any**, mailing address if different from the residence address and an address to which the ballot shall be mailed**;

(2) that he **or she** is or will be, on the day of the school district election, a qualified voter of the school district [~~in which he resides in that he is or will be, on such date, over eighteen years of age, a citizen of the United States and has or will have resided in the district for thirty days next preceding such date~~];

(3) [~~that he will be unable to appear to vote in person on the day of the school district election for which the absentee ballot is requested because he is, or will be on such day~~] **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:**

(a) a **resident or** patient in a hospital, **including a veteran's administration hospital,** or unable to appear personally at the polling place on such day 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**

(b) [~~because his duties, occupation, business, or studies will require him to be outside of the county or city of his residence on such day,~~] **absent from the county of his or her residence; provided, however, if the applicant expects to be absent from such county 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**

(c) [~~because he will be on vacation outside the county or city of his residence on such day~~] unable to be present due to his or her observance of a religious commitment, or following his or her religious teaching or tenet that forbids secular activity on that day; or[~~,~~]

(d) [~~absent from his voting residence because he is~~] detained in jail awaiting action by a grand jury or awaiting trial or [~~is~~] 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. [~~Such application must be received by the district clerk or designee of the trustees or school board at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter.~~]

b. [~~(1) Where such duties, occupation, business, or studies are of such a nature as ordinarily to require such absence, a brief description of such duties, occupation, business, or studies shall be set forth in such application.~~

~~(2) Where such duties, occupation, business, or studies are not of such a nature as ordinarily to require such absence, such application shall contain a statement of the special circumstances on account of which such absence is required.~~] Such application must be received by the district clerk or designee of the trustees or school board at least seven days before the election if the ballot is to be mailed to the voter, or the day before the election, if the ballot is to be delivered personally to the voter.

c. [~~Where the applicant expects in good faith to be absent on the day of the election because he will be on vacation elsewhere on such day, such application shall also contain the dates upon which he expects to begin and end such vacation, the place or places where he expects to be on such vacation, the name and address of his employer, if any, and if self-employed or retired, a statement to that effect.~~

~~d. Where the absence is because of detention or confinement to jail, such application shall state whether the voter is detained awaiting action of the grand jury or is confined after conviction for an offense other than a felony.~~

~~e. Where a person is or would be, if he were a qualified voter, entitled to apply for the right to vote by absentee ballot under the provisions of this section, his spouse, parent or child, if a qualified voter and a resident of the same school district, shall be entitled to vote as an absentee voter upon personally making and signing an application in accordance with the preceding provisions of this subdivision and showing that he expects to be absent from the school district on the day of the school district election by reason of accompanying or being with the spouse, child or parent who is or would be, if he were a qualified voter, so entitled to apply for the right to vote by absentee ballot, and, in the event no application is made by such spouse, child or parent, such further information as the clerk of the school district or designee of the trustees or school board shall require.~~

~~f.~~] Such application shall include the following statement to be signed by the voter.

I hereby declare that the foregoing is a true statement to the best of my knowledge and belief, and I understand that if I make any material false statement in the foregoing statement of application for absentee ballots, I shall be guilty of a misdemeanor.

Date..... Signature of Voter .....

[~~g.~~] d. The clerk of the school district or a designee of the trustees or school board shall request registration lists from the board of elections pursuant to subdivision three of section 5-612 of the election law for those voters whose registration record has been marked "permanently disabled". An applicant whose ability to appear personally at the polling place of the school district of which he or she is a qualified voter is substantially impaired by reason of permanent illness or physical disability and whose registration record has been marked "permanently disabled" as determined by the board of elections pursuant to the provisions of this chapter and who has previously applied for an absentee ballot shall be entitled to receive subsequent absentee ballots pursuant to the provisions of this section without making separate application for such absentee ballot, and the clerk of the school district or a designee of the trustees or school board shall send an absentee ballot to such voter at his or her last known address with a request to the postal authorities not to forward same but to return same in five days in the event that it cannot be delivered to the addressee. The clerk of the school district or a designee of the trustees or school board shall determine whether such ballot shall be sent by first class or by certified mail. All such ballots shall be mailed in the same manner as determined by the trustees or the board of education.

§ 3. This act shall take effect immediately.