

STATE OF NEW YORK

440--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. MYRIE, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, GONZALEZ, GOUNARDES, HARCKHAM, HINCHEY, JACKSON, LIU, MAY, MAYER, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO, SUTTON, ZELLNER -- read twice and ordered printed, and when printed to be committed to the Committee on Elections -- recommitted to the Committee on Elections in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, the correction law and the New York city charter, in relation to voting rights and access for incarcerated individuals

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

1 Section 1. This act shall be known and may be cited as the "Democracy
2 During Detention Act".

3 § 2. The election law is amended by adding a new section 8-109 to read
4 as follows:

5 § 8-109. Polling places at correctional facilities and local correc-
6 tional facilities. 1. For purposes of facilitating voting by incarcerat-
7 ed individuals at correctional facilities and local correctional facili-
8 ties, as such terms are defined in section two of the correction law,
9 the board of elections of each county may establish by majority vote, in
10 lieu of the absentee balloting program set forth in section 8-415 of
11 this article, a polling place at any such facility for at least three
12 hours of operation beginning the tenth day prior to any general, prima-
13 ry, run-off primary pursuant to subdivision one of section 6-162 of this
14 chapter or special election for any public or party position, and
15 ending on and including the ninth day prior to such general, primary,
16 run-off primary or special election for such public office or party

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

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1 position. Any such polling place shall be established in compliance
2 with the early voting provisions of paragraphs (d) and (e) of subdivi-
3 sion four and subdivisions five through eleven of section 8-600 of this
4 article, section 8-604 of this article regarding registration during
5 early voting, and subdivision one-a of section 4-104 of this chapter.
6 Voter access to polling places established pursuant to this section
7 shall be restricted to voters incarcerated at such facility or related
8 facilities and voters who are employees of such facilities, who are
9 registered to vote in the county where such facility is located. All
10 other eligible voters who are incarcerated at such facility or who are
11 employees of such facility shall be provided with voter registration
12 forms and absentee ballot applications pursuant to section 8-415 of this
13 article. The establishment of polling places under this section shall
14 be in addition to, and shall not diminish, the minimum quantity of early
15 voting locations required by subdivision two of section 8-600 of this
16 article, nor shall the fact of such establishment alter or prejudice the
17 application of the equitable siting factors therein.

18 2. (a) For purposes of facilitating voting by incarcerated individuals
19 at correctional facilities and local correctional facilities, as such
20 terms are defined in section two of the correction law, the board of
21 elections in the city of New York may establish by majority vote, in
22 lieu of the absentee balloting program set forth in section 8-415 of
23 this article, a polling place at any such facility for at least six
24 hours of operation beginning the tenth day prior to any general, prima-
25 ry, run-off primary pursuant to subdivision one of section 6-162 of this
26 chapter or special election for any public or party position, and ending
27 on and including the eighth day prior to such general, primary, run-off
28 primary or special election for such public office or party position.
29 Any such polling place shall be established in compliance with the
30 provisions of paragraphs (d) and (e) of subdivision four and subdivi-
31 sions five through eleven of section 8-600 of this article, section
32 8-604 of this article, and subdivision one-a of section 4-104 of this
33 chapter. Voter access to polling places established pursuant to this
34 section shall be restricted to voters incarcerated at such facility or
35 related facilities and voters who are employees of such facilities, who
36 are registered to vote in the county where such facility is located. All
37 other eligible voters who are incarcerated at such facility or who are
38 employees of such facility shall be provided with voter registration
39 forms and offered absentee ballot applications pursuant to section 8-415
40 of this article. The establishment of polling places under this section
41 shall be in addition to, and shall not diminish, the minimum quantity of
42 early voting locations required by subdivision two of section 8-600 of
43 this article, nor shall the fact of such establishment alter or preju-
44 dice the application of the equitable siting factors therein.

45 (b) Without limiting the provisions of paragraph (a) of this subdivi-
46 sion, the board of elections in the city of New York, in performing its
47 obligations under paragraph (a) of this subdivision, shall conduct at
48 least one site visit between forty-five and thirty days prior to a
49 primary or general election to administer timely voter registration by
50 eligible citizens at each correctional or local correctional facility
51 for which a polling place will be established pursuant to paragraph (a)
52 of this subdivision using board of elections electronic tablets and
53 digital resources wherever possible to effectuate electronic voter
54 registration in accordance with section 5-802 of this title, resorting
55 to paper forms only in extenuating circumstances or where employing such
56 tablets and digital resources would be impracticable.

1 3. Prior to the establishment of a polling place pursuant to subdivi-
2 sion one or two of this section, the board of elections shall develop a
3 facility voter access plan in consultation and cooperation with and
4 countersigned by the facility's superintendent, administrator or direc-
5 tor, or their designated democracy officer or agent. Such plan shall
6 describe the dates, times, and location or locations where registration
7 and voting will take place; the proposed staffing levels; election
8 equipment, materials, and voting machines to be deployed; how detained
9 citizens will be informed of voter eligibility; the technology, elec-
10 tricity, and cybersecurity needed to effectuate the plan; and voting
11 procedures, security measures and other considerations relevant to
12 ensuring secure and accessible voter access for eligible voters located
13 at the facility. Such plan shall be submitted to the state board of
14 elections no later than ninety days prior to the first day of voting and
15 approved by the state board of elections with any amendments prescribed
16 by the state board of elections no later than seventy-five days prior to
17 the first day of voting and shall be a public record.

18 § 3. The election law is amended by adding a new section 8-415 to read
19 as follows:

20 § 8-415. Absentee voting; application and registration drive for
21 incarcerated individuals at correctional facilities and local correc-
22 tional facilities. 1. This section applies to any correctional facility
23 or local correctional facility, as such terms are defined in section two
24 of the correction law, except for any such facility where the incarcer-
25 ated individuals at such facility are exclusively under the age of eigh-
26 teen.

27 2. (a) The board of elections in counties with at least one hundred
28 thousand registered voters shall provide that the eligible incarcerated
29 individuals at any such facility in such county with seventy-five or
30 more incarcerated individuals may vote by absentee ballot as provided
31 for in this section.

32 (b) Each board of elections subject to paragraph (a) of this subdivi-
33 sion shall develop a facility voter access plan in consultation and
34 cooperation with and countersigned by the facility's superintendent,
35 administrator or director, or their designated democracy officer or
36 agent. Such plan shall include written procedures to ensure orderly
37 administration of the absentee balloting program at each such facility,
38 in a manner such that all eligible persons have an effective opportunity
39 to register and vote. Such procedures shall include the delivery and
40 retrieval of electronic or paper voter registration forms, ballot
41 requests, and absentee ballots; describe the dates, times, and location
42 or locations where registration and voting will take place; the proposed
43 staffing levels; election equipment, materials, and any voting machines
44 to be deployed; how incarcerated individuals will be informed of voter
45 eligibility; the technology, electricity, and cybersecurity needed to
46 effectuate the plan; and procedures, security measures and other consid-
47 erations relevant to ensuring secure and accessible voting at the facil-
48 ity. This plan shall be submitted to the state board of elections no
49 later than ninety days prior to the first election day in which such
50 facility will participate in this program, and approved by the state
51 board of elections with any amendments prescribed by the state board of
52 elections no later than seventy-five days prior to such election day,
53 and shall be a public record. This paragraph shall not apply to facili-
54 ties where a board of elections establishes a polling place in accord-
55 ance with section 8-109 of this article.

1 (c) Without limiting the provisions of paragraph (a) of this subdivi-
2 sion, the board of elections in the city of New York, in performing its
3 obligations under paragraph (a) of this subdivision shall:

4 (i) ensure the adequate resource allocation and deployment, in a
5 manner consistent with that provided to voters who are not incarcerated,
6 of assistive devices and reasonable accommodations for persons with
7 disabilities pursuant to section 4-104 of this chapter, and interpretive
8 resources and language-related assistance in voting and elections pursu-
9 ant to section 17-208 of this chapter and in coordination with the poll
10 site language assistance program prescribed by paragraph (a) of subdivi-
11 sion four of section thirty-two hundred two of the charter of the city
12 of New York, to the extent justified by the needs of the voters incar-
13 cerated;

14 (ii) conduct at least one site visit between thirty and forty-five
15 days prior to a primary or general election to administer timely voter
16 registration and absentee ballot application by eligible citizens at
17 each such facility in accordance with subdivision three of this section
18 using board of elections electronic tablets and digital resources wher-
19 ever possible to effectuate electronic voter registration in accordance
20 with section 5-802 of this chapter and electronic absentee ballot appli-
21 cation in accordance with section 8-408 of this title, resorting to
22 paper forms only in extenuating circumstances or where employing such
23 tablets and digital resources would be impracticable, provided however,
24 that the board of elections in the city of New York may dispense with
25 such site visit if the approved written procedures for voting at such
26 facility required by paragraph (a) of this subdivision expressly author-
27 ize and direct the board of inspectors attending such facility to
28 conduct and process same-day voter registration and to receive and proc-
29 ess same-day in-person absentee ballot applications, including, for
30 applicants that are determined to be entitled to vote, delivery of the
31 applicable ballots; and

32 (iii) allocate and deploy sufficient equipment, personnel, and
33 resources when attending correctional facilities and local correctional
34 facilities within its jurisdiction at levels that, in consultation with
35 the state board of elections, take into account the estimated number of
36 eligible voters, historical data regarding the time taken to check in
37 and process voters at an office of the board of elections or a polling
38 place, public safety and security considerations, the division of incar-
39 cerated individuals among buildings, and other relevant factors.

40 3. For all other correctional facilities and local correctional facil-
41 ities, the board of elections shall coordinate with the superintendent,
42 administrator, director, designated democracy officer or agent to facil-
43 itate voter access by ensuring that all eligible citizens are provided
44 with access to electronic personal voter registration pursuant to this
45 article or voter registration by application which shall be processed
46 pursuant to sections 5-208 and 5-210 of this chapter, as applicable,
47 and, except for county voters detained or confined at a correctional
48 facility or local correctional facility at which a polling place will be
49 established pursuant to section 8-109 of this article, that all eligible
50 voters are provided with an absentee ballot application no later than
51 twenty-one days prior to election day. It shall be the duty of each such
52 superintendent, administrator, director, designated democracy officer or
53 agent to assist the board in the discharge of its duties pursuant to
54 this subdivision, including, but not limited to making available suit-
55 able space and reasonable accommodations within such facility.

1 4. The state board of elections shall promulgate non-partisan educa-
2 tional materials in plain language about the voting rights of individ-
3 uals currently incarcerated and formerly incarcerated for inclusion in
4 the incarcerated individual handbook or similar materials and reentry
5 resources.

6 5. Without limiting the provisions of subdivisions three and four of
7 this section, the board of elections in the city of New York, in
8 performing its obligations under subdivision three of this section,
9 shall deploy interpretive resources and language-related assistance to
10 ensure all eligible individuals have an effective opportunity to regis-
11 ter to vote and apply for an absentee ballot, to the extent justified by
12 the needs of the voters actually incarcerated.

13 6. Nothing in this section shall be construed to limit the rights
14 under state and federal law of any voter pursuant to this section and
15 the rights and remedies provided for under title two of article seven-
16 teen of this chapter.

17 § 4. Subdivision 1 of section 17-208 of the election law, as added by
18 chapter 226 of the laws of 2022, is amended to read as follows:

19 1. Political subdivisions required to provide language assistance. A
20 board of elections or a political subdivision that administers elections
21 shall provide language-related assistance in voting and elections to a
22 language-minority group in a political subdivision, or to citizens
23 belonging to a language-minority group incarcerated at correctional
24 facilities or local correctional facilities, if, based on data from the
25 American community survey, or data of comparable quality collected by a
26 public office, such data indicates that:

27 (a) more than two percent, but in no instance fewer than three hundred
28 individuals, of the citizens of voting age of a political subdivision,
29 or in the city of New York the citizens of voting age incarcerated at
30 correctional facilities or local correctional facilities, are members of
31 a single language-minority group and are limited English proficient.

32 (b) more than four thousand of the citizens of voting age of such
33 political subdivision are members of a single language-minority group
34 and are limited English proficient.

35 (c) in the case of a political subdivision that contains all or any
36 part of a Native American reservation, more than two percent of the
37 Native American citizens of voting age within the Native American reser-
38 vation are members of a single language-minority group and are limited
39 English proficient. For the purposes of this paragraph, "Native Ameri-
40 can" is defined to include any persons recognized by the United States
41 census bureau or New York as "American Indian" or "Alaska Native".

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

44 § 75. [~~Notice of voting~~] Voting rights. 1. Freedom to vote. All
45 persons who have been or hereafter be incarcerated at any correctional
46 facility, who are qualified to register for and vote at any election
47 pursuant to section 5-102 of the election law and not subject to exclu-
48 sion by section 5-106 of the election law, are hereby declared to be
49 entitled to the free exercise and enjoyment of the elective franchise
50 without discrimination or preference.

51 2. Opportunity to register to vote and request ballots. The rules and
52 regulations established for any correctional facility shall recognize
53 the right of incarcerated individuals, who are qualified to register for
54 and vote at any election pursuant to section 5-102 of the election law
55 and not subject to exclusion by section 5-106 of the election law, to
56 the free exercise of their right to vote in accordance with the

1 provisions of the constitution and, to effectuate such end, shall allow
2 for access by the eligible individuals to electronic personal voter
3 registration or voter registration by application pursuant to article
4 five of the election law and to access absentee balloting services
5 through the electronic absentee ballot application transmittal system or
6 by paper application pursuant to title four of article eight of the
7 election law, in such manner as may best carry into effect the intent of
8 this section and be consistent with the proper discipline and management
9 of the correctional facility. Such services shall be made available
10 within the buildings or grounds, whenever possible, where the incarcer-
11 ated individuals are confined, in such manner and at such hours as will
12 be in accordance with the rules and regulations of both the facility and
13 the board of elections, and such facilities shall secure to such indi-
14 viduals the free exercise of their right to vote in accordance with the
15 provisions of this section. In case of a violation of any of the
16 provisions of this section, any person aggrieved thereby may exercise
17 any rights and remedies provided for under state and federal law,
18 including by instituting proceedings in the supreme court of the
19 district where such facility is situated, which is hereby authorized and
20 empowered to enforce the provisions of this section.

21 3. Duty to cooperate. Pursuant to sections 8-109, if applicable,
22 8-406, 8-415, and 17-208 of the election law, the superintendent of each
23 correctional facility shall cooperate with the board of elections in
24 developing and implementing a plan to facilitate at least one method of
25 voter access for all persons eligible to vote who are incarcerated at
26 each such facility. The superintendent of each correctional facility
27 shall provide timely clearance of board of elections personnel appointed
28 by the board of elections to discharge their duties under sections 8-407
29 and 8-415 of the election law, authorize access for such personnel, and
30 provide security for board of elections personnel. The superintendent
31 of each correctional facility shall ensure that such personnel shall be
32 provided with the necessary resources, space and reasonable accommo-
33 dations within such facility for the discharge of its duties. The
34 department shall issue regulations directing each such facility to
35 ensure the timely delivery, and to facilitate the timely return if
36 applicable, of all official election mail, forms, notices or communi-
37 cations to any incarcerated individual at such facility and that non-
38 partisan plain language educational materials about the voting rights of
39 individuals currently incarcerated and formerly incarcerated are
40 included in the incarcerated individual handbook or similar materials
41 and reentry resources. Without limiting any rights or remedies provided
42 to voters under the law, there shall be a presumption of a violation of
43 subdivision one of section 17-212 of the election law when any super-
44 intendent, employee, or agent of such correctional facility, by commis-
45 sion or omission, intentionally frustrates the purposes of this section.

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

1 Where such person chooses to have the department transmit the applica-
2 tion, the department shall transmit the completed application upon such
3 person's release to the state board or county board where such person
4 resides.

5 § 6. Section 510 of the correction law, as amended by chapter 473 of
6 the laws of 2023, is amended to read as follows:

7 § 510. Voting [~~upon release~~]. 1. Freedom to vote. All persons who have
8 been or hereafter are incarcerated at any local correctional facility,
9 who are qualified to register for and vote at any election pursuant to
10 section 5-102 of the election law and not subject to exclusion by
11 section 5-106 of the election law, are hereby declared to be entitled to
12 the free exercise and enjoyment of the elective franchise without
13 discrimination or preference.

14 2. Opportunity to register to vote and request ballots. The rules and
15 regulations established for local correctional facilities shall recog-
16 nize the right of incarcerated individuals, who are qualified to regis-
17 ter for and vote at any election pursuant to section 5-102 of the
18 election law and not subject to exclusion by section 5-106 of the
19 election law, to the free exercise of their right to vote in accordance
20 with the provisions of the constitution and, to effectuate such end,
21 shall allow for access by the eligible individuals to electronic
22 personal voter registration or voter registration by application pursu-
23 ant to article five of the election law and to access absentee balloting
24 services through the electronic absentee ballot application transmittal
25 system or by paper application pursuant to title four of article eight
26 of the election law, in such manner as may best carry into effect the
27 intent of this section and be consistent with the proper discipline and
28 management of the correctional facility. Such services shall be made
29 available within the buildings or grounds, whenever possible, where the
30 incarcerated individuals are confined, in such manner and at such hours
31 as will be in accordance with the rules and regulations of both the
32 facility and the board of elections, and secure to such individuals the
33 free exercise of their right to vote in accordance with the provisions
34 of this section. In case of a violation of any of the provisions of this
35 section, any person aggrieved thereby may exercise any rights and reme-
36 dies provided for under state and federal law, including by instituting
37 proceedings in the supreme court of the district where such facility is
38 situated, which is hereby authorized and empowered to enforce the
39 provisions of this section.

40 3. Duty to cooperate. Pursuant to sections 8-406, 8-415, and 17-208 of
41 the election law, the superintendent of each local correctional facility
42 shall cooperate with the board of elections in developing and implement-
43 ing a plan to facilitate at least one method of voter access for all
44 persons eligible to vote who are incarcerated at each such facility,
45 including, but not limited to providing timely clearance, access, and
46 security for board of elections personnel and resources, and making
47 available to such board space and reasonable accommodations within such
48 facility for the discharge of its duties. The department shall issue
49 regulations directing each such facility to ensure the timely delivery,
50 and to facilitate the timely return if applicable, of all official
51 election mail, forms, notices or communications to any incarcerated
52 individual at such facility and that non-partisan plain language educa-
53 tional materials about the voting rights of individuals currently incar-
54 cerated and formerly incarcerated are included in the incarcerated indi-
55 vidual handbook or similar materials and reentry resources. Without
56 limiting any rights or remedies provided to voters under the law, there

1 shall be a presumption of a violation of subdivision one of section
2 17-212 of the election law when any superintendent, employee, or agent
3 of such local correctional facility, by commission or omission, inten-
4 tionally frustrates the purposes of this section. This subdivision shall
5 not apply to any facility where the persons incarcerated at such facili-
6 ty are exclusively under the age of eighteen.

7 4. Rights restoration upon release and registration. Prior to the
8 release from a local correctional facility of any person convicted of a
9 felony the chief administrative officer shall notify such person verbal-
10 ly and in writing that [~~his or her~~] their voting rights will be restored
11 upon release and provide such person with a form of application for
12 voter registration and a declination form, offer such person assistance
13 in filling out the appropriate form, and provide such person written
14 information distributed by the board of elections on the importance and
15 the mechanics of voting. Upon release, such person may choose to either
16 submit [~~his or her~~] their completed application to the state board or
17 county board where such person resides or have the department transmit
18 it on [~~his or her~~] their behalf. Where such person chooses to have the
19 department transmit the application, the chief administrative officer
20 shall transmit the completed application upon such person's release to
21 the state board or county board where such person resides.

22 [~~2-~~] 5. Upon discharge or release from the custody of a local correc-
23 tional facility, the chief administrative officer of such facility
24 shall, in consultation with the county board of elections, distribute to
25 every person eighteen years of age or older a written notice on the
26 voting rights of such person in the state of New York, including infor-
27 mation on the importance and mechanics of voting, when such person is or
28 may become eligible to vote, and offer to every such person a voter
29 registration form; provided that, if an individual declines to accept a
30 voter registration form, the chief administrative officer shall maintain
31 a written record of such declination. Notice is not required for those
32 individuals being transferred to a different local correctional facili-
33 ty, individuals being transferred or released to the custody of a state
34 correctional facility or institution, or individuals being released to
35 the custody of a hospital or mental health institution for treatment.

36 § 7. Subdivision 9 of section 1057-a of the New York city charter, as
37 amended by chapter 481 of the laws of 2023, is amended to read as
38 follows:

39 9. In addition to the other requirements of this section, the depart-
40 ment of correction shall [~~implement and administer a program of distrib-~~
41 ~~ution and submission of early mail and absentee ballot applications, and~~
42 ~~subsequently received early mail or absentee ballots, for eligible~~
43 ~~incarcerated individuals. Such department shall offer, to all incarcer-~~
44 ~~ated individuals who are registered to vote, early mail and absentee~~
45 ~~ballot applications, and a means to complete them, during the period~~
46 ~~from sixty days prior to any primary, special, or general election in~~
47 ~~the city of New York until two weeks prior to any such election. Such~~
48 ~~department shall subsequently provide any early mail or absentee ballot~~
49 ~~received from the board of elections in response to any such application~~
50 ~~to the applicable incarcerated individual, as well as a means to~~
51 ~~complete it. Such department shall provide assistance to any such incar-~~
52 ~~cerated individual in filling out such application or ballot upon~~
53 ~~request. Such department shall, not later than five days after receipt,~~
54 ~~transmit such completed applications and ballots from any incarcerated~~
55 ~~individual who wishes to have them transmitted to the board of elections~~
56 ~~for the city of New York. The provisions of this subdivision shall not~~

~~1 apply in any specific instance in which the department deems it unsafe~~
~~2 ~~to comply therewith]~~ assist, coordinate, and cooperate with the board of~~
~~3 elections in developing and implementing a plan to facilitate voter~~
~~4 access for all persons eligible to vote who are incarcerated at each~~
~~5 facility, in accordance with the democracy during detention act.~~

6 § 8. Subparagraph (a) of paragraph 4 of subdivision a of section 3202
7 of the New York city charter, as added by section 2 of question 2 of
8 local law number 211 of the city of New York for the year 2018, is
9 amended to read as follows:

10 (a) Subject to appropriation and after consultation with the mayor's
11 office of immigrant affairs and the department of city planning, estab-
12 lish a program for providing language interpreters at poll sites
13 throughout New York city for the purpose of facilitating participation
14 by limited English proficient individuals in voting in elections held in
15 the city, which shall include correctional facilities and local correc-
16 tional facilities located in the city. To the extent practicable, the
17 commission shall consult and coordinate with the board of elections of
18 the city of New York in the development and implementation of the
19 program established pursuant to this paragraph.

20 § 9. This act shall take effect on the first of July next succeeding
21 the date on which it shall have become a law. Effective immediately, the
22 addition, amendment and/or repeal of any rule or regulation necessary
23 for the implementation of this act on its effective date are authorized
24 to be made and completed on or before such effective date.