

CHAPTER 138

AN ACT concerning absentee ballots and amending P.L.1953, c.211.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1953, c.211 (C.19:57-2) is amended to read as follows:

C.19:57-2 Definitions.

2. Whenever used in this act, the following terms shall, unless the context indicates otherwise, be construed to have the following meanings:

"Absentee ballot" means any military service ballot or civilian absentee ballot as herein defined.

"Absentee voter" means any person qualified to vote a military service ballot or a civilian absentee ballot under the provisions of this act.

"Armed Forces of the United States" means any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps.

"Civilian absentee ballot" means a ballot for use by a civilian absentee voter as prescribed by this act.

"Civilian absentee voter" means any qualified and registered voter of the State who wants to vote by absentee ballot.

"Election," "general election," "primary election for the general election," "presidential primary election," "municipal election," "school election," and "special election" shall mean, respectively, such elections as defined in the Title to which this is a supplement (R.S.19:1-1 et seq.).

"Family member" means an adult who is a spouse, parent, child, grandparent, grandchild or sibling of a voter, whether by adoption or natural relationship. It shall also include any adult occupant regularly living with a voter in any residential building or part of a building intended for the use of no more than one family.

"Incapacitated absentee voter" means a voter who, due to incapacity, is unable to complete his ballot.

"Military service" means active service by any person, as a member of any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps, or as a member of the maritime or merchant marine service, or as a reservist undergoing training under Army, Navy, Air Force, Coast Guard or Marine Corps direction.

"Military service voter" means a qualified elector under the Constitution and the laws of this State who comes within one of the following categories:

(a) Persons in the military service and their spouses and dependents.

(b) Patients in a veterans' hospital who have been in the military service in any war in which the United States has been engaged and have been discharged or released from such service.

(c) Civilians attached to or serving with the Armed Forces of the United States and their spouses and dependents when residing with or accompanying them.

"Military service ballot" means a ballot for use by a military service voter as prescribed by this act.

"Member of the maritime or merchant marine service" means any person employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States or enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service as an officer or crew member of any such vessel or any such person as otherwise defined in section 107 of Pub.L.99-410, the "Uniformed and Overseas Citizens Absentee Voting Act," (42 U.S.C. s. 1973ff-6).

2. Section 3 of P.L.1953, c.211 (C.19:57-3) is amended to read as follows:

C.19:57-3 Persons entitled to vote by absentee ballot, liberal construction.

3. The following persons shall be entitled to vote by absentee ballot in any election to be held in this State, in the manner hereinafter provided:

A military service voter who has resided in this State at least 30 days and in the county in which he claims the right to vote at least 30 days counting the time he has been absent from the election district in which he resides because of the service, work, status or relationship entitling him to a military service ballot;

A military service voter who is stationed and resident in any garrison, barrack or military or naval

place or station within this State, or who resides therein as spouse or dependent of a person in the military, naval or marine service so stationed, and who claims his vote in the municipality wherein such residence is located, shall be entitled to vote by military absentee ballot in any election for which he is duly registered to cast his vote in the election district of his residence in said municipality, but not otherwise; and

A civilian absentee voter as defined in section 2 of P.L.1953, c.211 (C.19:57-2).

This act shall be liberally construed to effectuate these purposes.

3. Section 4 of P.L.1953, c.211 (C.19:57-4) is amended to read as follows:

C.19:57-4 Applications for absentee ballots.

4. At any time not less than seven days prior to an election in which he desires to vote by mail, a civilian absentee voter may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6), for a civilian absentee ballot. Such application or request shall be made in writing, shall be signed by the applicant and shall state his or her place of voting residence and the address to which said ballot shall be sent.

Any military service voter desiring to vote in any election or any relative or friend of a military service voter who believes that such voter will desire to vote in any election, may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6) for a military service ballot to be sent to such voter. A military service voter may use a federal postcard application form to apply for a military service ballot. On any application made by a military service voter the voter may request a military service ballot for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made; if such a request is made, a military service ballot shall be sent in a timely manner to the voter for all such elections.

Any civilian absentee voter who fails to apply within the seven-day time prescribed above may apply in person to the county clerk for an absentee ballot on any day up to 3 p.m. of the day before the election.

In the event of sickness or confinement, the qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his signature on the application in the space so provided in the presence of the county clerk or his designee. No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to serve as an authorized messenger. The authorized messenger shall show a photo identification card to the county clerk, or the designee thereof, at the time the messenger submits the application form. The county clerk or his designee shall authenticate the signature of the authorized messenger, in the event such a messenger is other than a family member, by comparing it with the signature of the said person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, which identification carries the full address and signature of said person. After the signature of the application and, when appropriate, authentication, the county clerk or his designee is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter. The Attorney General shall cause to be prepared a standard authorized messenger application form, which may be included with the standard civilian absentee ballot application forms. The authorized messenger section of the application shall contain the following language above the signature of the authorized messenger: "I do hereby certify that I will deliver the absentee ballot directly to the voter and no other person, under penalty of law."

A voter who is permanently and totally disabled, and any other voter who wishes to vote only by absentee ballot in a general election, and who states that on a request for an absentee ballot, shall be furnished an application for an absentee ballot by the county clerk for future elections in which the voter shall be eligible to vote, without further request on the part of the voter and until the voter requests that he or she no longer be sent an application. A voter who is permanently and totally disabled shall have the option to indicate on an application for an absentee ballot that the voter would like to receive an absentee ballot for each election that takes place during the remainder of the calendar year in which the application is completed and submitted. A voter who exercises this option

shall be furnished with an absentee ballot for each election that takes place during the remainder of the calendar year without further request by the voter. A person voting by absentee ballot who registered by mail after January 1, 2003, who did not provide personal identification information when registering pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting for the first time in his or her current county of residence following registration shall include the required identification information with the absentee ballot. Failure to include such information with the absentee ballot shall result in the rejection of the ballot.

4. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read as follows:

C.19:57-7 Absentee ballots; information and notices.

7. a. The Attorney General, through the Division of Elections in the Department of Law and Public Safety shall be responsible for providing all information regarding military service ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2), and overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make available valid military service voter registration applications, military service ballot applications and overseas federal election voter registration and ballot applications to any military service or overseas federal election voter who wishes to register to vote or to vote in any jurisdiction in this State. The division shall publish or cause to be published the following notice in substantially the following form:

NOTICE TO MILITARY SERVICE VOTERS AND TO THEIR RELATIVES AND FRIENDS

If you are in the military service, or the spouse or dependent of a person in military service or are a patient in a veterans' hospital or a civilian attached to or serving with the Armed Forces of the United States, or the spouse or dependent of and accompanying or residing with a civilian attached to or serving with the Armed Forces of the United States, and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the..... (school, municipal, primary, presidential primary, general or other) election to be held on..... (date of election) kindly write to the undersigned at once making application for a military service ballot to be voted in said election to be forwarded to you, stating your name, age, serial number if you are in military service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make application under oath for a military service ballot to be forwarded to him, stating in your application that he is over the age of 18 years and stating his name, serial number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made.

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Forms of application other than federal postcard application forms can be obtained from the undersigned. Dated.....

(signature and title of Director of Division of Elections)

.....
(address of Division of Elections)

b. The county clerk of the county, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the clerk of the municipality, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish or cause to be published

the following notice in substantially the following form:

NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE BALLOTS

If you are a qualified and registered voter of the State who wants to vote by absentee ballot in the..... (school, municipal, primary, presidential primary, general, or other) election to be held on..... (date of election) kindly complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a civilian absentee ballot be forwarded to you. Such request must state your home address, and the address to which said ballot should be sent, and must be dated and signed with your signature. If any person has assisted you to complete the absentee ballot application, the name, address and signature of the assistor must be provided on the application. Also, you must sign and date the application for it to be valid and processed. No person who is a candidate in the election for which the voter requests an absentee ballot may provide any assistance in the completion of the ballot or may serve as an authorized messenger. No civilian absentee ballot will be furnished or forwarded to any applicant unless request therefor is received not less than seven days prior to the election, and contains the foregoing information.

Voters who are permanently and totally disabled, and any other voters who wish to vote only by absentee ballot in a general election, and who state that on their request shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the county clerk for future elections in which they are eligible to vote and until the voter requests that he or she no longer be sent an application. Permanently and totally disabled voters also have the option of indicating on their absentee ballot applications that they would prefer to receive absentee ballots for each election that takes place during the remainder of this calendar year. Permanently and totally disabled voters who exercise this option will be furnished with absentee ballots for each election that takes place during the remainder of this calendar year, without further action on their part.

Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated.....

(signature and title of county clerk)

.....

(address of county clerk)

.....

(Telephone No. of county clerk)

APPLICATION FORM FOR CIVILIAN

ABSENTEE BALLOT

(Form to be prepared by the Attorney General pursuant to section 17 of P.L.1977, c.47 (C.19:57-4.1)).

c. The absentee ballot materials shall contain a notice that any person voting by absentee ballot who registers by mail after January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following registration shall include the required identification information with the absentee ballot, and that failure to include such information shall result in the rejection of the ballot.

d. Such notices as described in subsections a. and b. of this section shall be separately published prior to the 50th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in the county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held or if no newspaper be published in said municipality or district, then in a newspaper published in the county and circulating in such municipality, municipalities or district. All such notices shall be display advertisements.

5. Section 11 of P.L.1953, c.211 (C.19:57-11) is amended to read as follows:

C.19:57-11 Forwarding of ballots.

11. Each county clerk shall forward a military service ballot or a civilian absentee ballot, as the case may be, for use under this act by first-class mail or hand delivery to each military service voter who applies therefor or on whose behalf application is made therefor, and whose application is approved in any case where approval is required under section 10 of this act, and to each civilian absentee voter whose request therefor has been approved. Hand delivery of an absentee ballot shall be made by the county clerk or his designee only to the voter or his authorized messenger, who must appear in person. Ballots that have not been hand delivered shall be addressed to the voter at the forwarding address given in the application. All ballots to be forwarded to persons at an address located within the limits of the states of Alaska and Hawaii or anywhere else without the limits of the other 48 states and the District of Columbia shall be forwarded by air mail.

Such ballot shall be so forwarded as soon as practicable after the 40th day preceding the day upon which any election is to be held.

Whenever the clerk forwards by mail a military or civilian absentee ballot, as the case may be, to an absentee ballot voter between the 14th day and the fourth day prior to the day of an election, the ballot shall be transmitted, following approval of the application, within two business days of the receipt of the application.

6. Section 12 of P.L.1953, c.211 (C.19:57-12) is amended to read as follows:

C.19:57-12 Requests for absentee ballots, forwarding, lists, updating of lists.

12. a. Each county clerk, after processing the request for civilian absentee ballots and the applications for military absentee ballots requiring approval under section 10 of P.L.1953, c.211 (C.19:57-10) and furnishing the applicant with a civilian or military absentee ballot in the manner prescribed by this act, shall forward such requests, including those disapproved, to the county board of elections. Each county clerk shall also keep one list of such requests received by the clerk and another list of the applicants whose applications were approved and sent absentee ballots. Each list shall include the name and street address of each person requesting or receiving either a civilian or military absentee ballot. The clerk shall update the lists each business day and they shall be made available to the public and transmitted to all election officials charged with the duty of administering this act.

b. Each county board of elections shall keep a list of the name and street address of each person who returns a voted civilian or military absentee ballot and the name and street address of each person who delivers such a ballot personally to the board. The board shall update the list each business day and it shall be accessible to the public and transmitted to all elections officials charged with the duty of administering this act.

The county clerk and the county board of elections shall keep the lists required by this section starting no later than the 14th day prior to the day of the election and continue to do so until the day of the election.

7. Section 16 of P.L.1953, c.211 (C.19:57-16) is amended to read as follows:

C.19:57-16 Directions to be sent with ballots; envelopes.

16. Each county clerk shall send, with each absentee ballot, printed directions for the preparation and transmitting of absentee ballots as required by this act, which shall be printed in such manner and form as the Secretary of State shall require, together with two envelopes of such sizes that one will contain the other.

The outer envelope shall be addressed to the county board of elections of the county in which is located the home address of the person to whom the absentee ballot is sent, as certified by the county clerk. On the outside and front of each outer envelope, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING IS COMPLETED:

Ballot mailed or transported by

(signature of bearer)
(print name of bearer)
(address of bearer)

The reserve side of the outer envelope shall contain the following:

REMINDER

For your vote to count, you must:

- 1) Vote your ballot and place it in the inner envelope with the attached certificate.
- 2) Seal the envelope.
- 3) Place the envelope into the larger envelope addressed to the board of elections and seal that envelope.
- 4) Affix the proper postage to the envelope.
- 5) If another person will be mailing your ballot or bringing it to the board of elections, **MAKE CERTAIN THAT PERSON COMPLETES THE "BEARER PORTION" ON THE ENVELOPE ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A CANDIDATE IN THE ELECTION FOR WHICH YOU REQUESTED AN ABSENTEE BALLOT CAN BE THE BEARER FOR YOUR BALLOT.**

The Attorney General is authorized to make such necessary changes to the instructions for absentee ballot materials as the Attorney General deems necessary or as is mandated by federal or State law.

The inner envelope shall be so designed that it can be sealed after the absentee ballot has been placed therein and the flap thereof shall be of such length and size as to leave sufficient margin, after sealing, for the printing thereon of the certificate hereinafter described. The flap shall be so arranged that, after the inner envelope has been sealed, the certificate can be contained, with the said inner envelope, in the outer envelope, and that the margin containing the certificate can be detached without unsealing the inner envelope.

On the outside of each envelope in which an absentee ballot is sent to an absentee voter by the county clerk, there shall be printed or stamped the words "Official Military Service Ballot" or "Official Civilian Absentee Ballot" as the case may be. In addition, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

The reverse side of each inner envelope shall contain the following statement:

ANY PERSON MAY BE FINED AND IMPRISONED AND MAY ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW if he attempts to vote fraudulently by absentee ballot, prevents the voting of a legal voter, certifies falsely any information, interferes with a person's secrecy of voting, tampers with ballots or election documents or helps another person to do so.

8. Section 23 of P.L.1953, c.211 (C.19:57-23) is amended to read as follows:

C.19:57-23 Marking and handling of absentee ballots by voters; return by mail or personal delivery; record.

23. Any absentee voter shall be entitled to mark any absentee ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with the election laws of this State, except that in such ballots to be voted in any presidential primary election or primary election for the general election, as the case may be, his choice shall be limited to the candidates of his political party or to any person or persons whose names are written thereon by him. When so marked, such ballot shall be placed in said inner envelope, which shall then be sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed. No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to provide any assistance in the completion of the ballot.

No absentee voter shall permit any person in any way, except as provided hereafter, to unseal, mark or inspect his ballot, interfere with the secrecy of his absentee ballot vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

An absentee voter shall be entitled to assistance from a family member in performing any of the actions above. An incapacitated absentee voter shall also be entitled to assistance from a person other than a family member in performing any of such actions. The family member or other person providing such assistance shall certify that he did assist the voter and will maintain the secrecy of the vote by both printing and signing his name in the space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

Said sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed with sufficient postage to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by him to such board or its designee. Such ballot must be received by such board or its designee before the time designated by R.S.19:15-2 or R.S.19:23-40 for the closing of the polls, as may be appropriate on the day of an election.

At the time any person delivers a ballot to the county board, he shall sign a record which the county shall maintain of all absentee ballots personally delivered to it.

No person who is a candidate in the election for which the voter requests an absentee ballot shall be permitted to serve as an authorized messenger or bearer. The messenger or bearer, by signing the certification provided for in section 4 of P.L.1953, c.211(C.19:57-4), certifies that he or she received an absentee ballot directly from the voter and no other person and is authorized to deliver the ballot to the appropriate board of election on behalf of the voter.

9. Section 28 of P.L.1953, c.211 (C.19:57-28) is amended to read as follows:

C.19:57-28 Person receiving absentee ballot cannot vote in person.

28. No person who has applied for a civilian absentee ballot and to whom a civilian absentee ballot has been either delivered in person or forwarded by mail by a county clerk, shall be permitted to vote in person at the polling place in his election district on the day of the election, but such person may execute such ballot in the manner provided by this act.

10. This act shall take effect immediately.

Approved July 7, 2005.