



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: April 26, 2017

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: H.B. 63 (Absentee Voting)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 63, which would amend the Delaware Constitution, the legislation would have to be adopted by a 2/3 vote in successive General Assemblies to take effect.

SCPD has the following observations.

First, the Delaware Constitution is somewhat prescriptive in authorizing absentee ballots. For example, it contemplates use of absentee ballots based on "sickness or physical disability" but omits any reference to "mental disability". This bill would remove limitations and allow the General Assembly to enact laws covering qualifications for the use of absentee ballots.

Second, the bill is identical to H.B. No. 20 from the 147th General Assembly and H.B. No. 105 from the 148th General Assembly. The SCPD and GACEC endorsed both of the prior bills. In 2013, a 27-14 vote on the bill in the House fell one vote short of the 2/3 benchmark. See attached April 17, 2013 Delaware News Journal article. In 2015-16, the legislation was released from the House Administration Committee but received no formal House vote. Parenthetically, the attached article offers some supplemental background on the initiative. It quotes the prime sponsor's comment that "it's wrong that Delaware law currently allows a disabled person to vote absentee but could bar that person's full-time caregiver from doing the same." The article also notes that twenty-seven (27) states allow "no excuse" absentee voting. The attached National Conference of State Legislatures article is corroborative, i.e., twenty-seven (27) states and the

District of Columbia have “no excuse” absentee voting.

SCPD is endorsing the proposed legislation contingent upon incorporation of the above amendment in the bill. The majority of states authorize use of absentee ballots for any reason and the Delaware Constitution does not authorize absentee ballots based on mental disability or caretaker status.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Ms. Elaine Manlove, Department of Elections
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 63 early voting 4-24-17

MEMORANDUM

DATE: April 24, 2017

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: H.B. 63 (Absentee Voting)

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Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: Ms. Elaine Manlove, Department of Elections
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 63 early voting 4-24-17

STATE GOVERNMENT

Mixed day for voting

Felon limit eased, absentee rules upheld

By Doug Denison
The News Journal

DOVER — Shortly after one chamber of the General Assembly voted Tuesday to enact a constitutional amendment expanding voting rights for convicted felons, the other chose to reject a proposed amendment that would have allowed more citizens to vote absentee.

Many felons in Delaware now will be able to vote immediately after discharging their criminal sentences, according

to an amendment passed by the Senate removing a constitutional provision barring felons from voting for five years after completing their punishments.

In the House, a Democratic bill to change constitutional limitations on absentee balloting failed by a single vote. The legislator sought to remove all qualifications for casting an absentee ballot, which currently is allowed only because of military service, family illness or disability, travel or religious objections.

Twenty-seven states allow so-called "no excuse" absentee voting.

Amendments to the state constitution require two-thirds majorities in both chambers of the General Assembly in two consecutive legislative sessions separated by a general election. They do not need the governor's signature.

The felon voting-rights measure, introduced last year, cleared its final hurdle in the Senate, 15-6.

Those convicted of murder, public corruption or sex crimes still would be barred from voting for life in Delaware.

See VOTING, Page B2

Voting: Limits on absentee ballots will stay

Continued from Page B1

one of 12 states that revoke voting rights for certain criminals, according to the nonprofit ProCon.org.

Ben Jealous, president and CEO of the NAACP, was in the Senate for the vote and called the amendment a victory for civil rights.

"This law was one of the last pillars of Jim Crow voter-suppression legislation. In this time, in this country, where so many other states are suppressing the vote, it's heartening to see Delaware take the lead in restoring the vote to people who have made a mistake but paid their price for it and earned the right to have their vote restored," Jealous said.

The amendment was named the Hazel D. Plant Voter Restoration Act in honor of the late Wilmington state representative who pushed for its passage up to her death in 2010. Her husband, the late Rep. Al O. Plant, worked on the measure in the years before his death in 2000.

Wilmington Rep. Helene Keeley sponsored the latest version of the amendment.

"It's very emotional for me to know that Hazel and Al are up in heaven saying 'You know what, we finally got it done.' It was something she really wanted to have before she passed away, and it just never came to fruition," Keeley said.

Two Senate Republicans voted for the amendment Tuesday: Sen. Greg Lavelle, of Sharpshooters, and Sen. Catherine Cloutier, of Brandywine Hundred.

Sen. Colin Bonini, R-Dover South, voted no and said it is appropriate to bar felons from voting for five years after the fulfillment of their sentences.

"An immediate turnaround makes me a little uncomfortable," he said. "I thought five years was a reasonable waiting period," he said. "I don't see a particular reason to change that now."

Absentee amendment

No Republicans voted for the absentee balloting amendment, which was



introduced for the first time this year. All 26 House Democrats voted for the measure, one short of the required two-thirds majority.

Minority Leader Dan Short, of Scaford, said his caucus believed the proposed amendment would leave absentee voting rules too "open-ended" and raised the specter of voter fraud.

"Voting is a sacred right in this country, and I think that when we lose sight of the fact that Election Day is the day you go out and vote for candidates, the casting of that absentee ballot is something, I think, that has an opportunity not just for voter fraud, but for immense influence versus actual voting on that particular day," he said.

Majority Leader Valentic Loughurst charged the Republicans with playing politics and said there were at least seven GOP representatives who previously had agreed to vote yes but were told not to by their leaders.

"If you think it's not partisan, it is," she said. "I don't know why they want to suppress votes."

Bill sponsor Rep. Earl Jacques, D-Glasgow, said it's wrong that Delaware law currently allows a disabled person to vote absentee but could bar that person's full-time caregiver from doing the same.

"It's not a party thing; it's just allowing people the opportunity to vote," Jacques said. "We should encourage everybody in this country to vote and make it as easy and accessible as possible."

The only way the absentee voting amendment could be reconsidered this session is if a member of the prevailing side in the vote; in this case a Republican, asks for the roll call to be rescinded and retaken.

Contact Doug Denison at 678-4271, on Twitter @DoverDelusion or at denison@delawareonline.com.



NATIONAL CONFERENCE of STATE LEGISLATURES

Absentee and Early Voting

3/20/2017

Latest Developments: In North Carolina, the 4th U.S. Circuit Court of Appeals struck down that state's 2013 law that reduced early voting hours. This change is not reflected below, pending actions state authorities may take in response to the ruling.

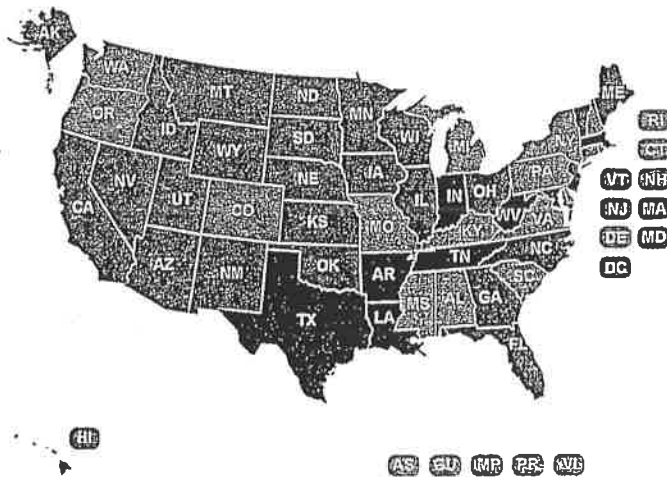
Most states have a method for any eligible voter to cast a ballot before Election Day, either during the early voting period or by requesting an absentee ballot. In 13 states, early voting is not available and an excuse is required to request an absentee ballot.

States offer three ways for voters to cast a ballot before Election Day:

- 1. Early Voting:** In 37 states (including 3 that mail ballots to all voters) and the District of Columbia, any qualified voter may cast a ballot in person during a designated period prior to Election Day. No excuse or justification is required.
- 2. Absentee Voting:** All states will mail an absentee ballot to certain voters who request one. The voter may return the ballot by mail or in person. In 20 states, an excuse is required while 27 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse. Some states offer a permanent absentee ballot list: once a voter's name is added to the list, s/he will automatically receive an absentee ballot for all future elections.
- 3. Mail Voting:** A ballot is automatically mailed to every eligible voter (no request or application is necessary). In-person voting sites may also be available for voters who would vote in-person and to provide additional services to voters. Three states mail ballots to all eligible voters for every election. Other states may provide this option for some types of elections.

Scroll over the map below for state-by-state details.

No-excuse absentee voting	Early voting	Early voting AND no-excuse absentee voting	All-mail voting	No early voting: excuse required for absentee
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Overview

The table below details the types of pre-election day voting that are available in each state. Information on the details for each category may be found below the table.

PRE-ELECTION DAY VOTING

State	In-Person	By Mail			Permanent Absentee Sta
	Early Voting	No-Excuse Absentee	Absentee; Excuse Required	All-Mail Voting	
Alabama			•		
Alaska	•	•		(a)	
Arizona	•	•		(a)	•
Arkansas	•		•	(a)	
California	•	•		(a)	•
Colorado				•	
Connecticut			•		•
Delaware			•		
D.C.	•	•			•
Florida	•	•		(a)	
Georgia	•	•			
Hawaii	•	•		(a)	•
Idaho	(b)	•		(a)	
Illinois	•	•			
Indiana	(b)		•		
Iowa	(b)	•			
Kansas	•	•		(a)	
Kentucky			•		
Louisiana	•		•		
Maine	(b)	•			
Maryland	•	•		(a)	
Massachusetts	(c)		•		

State	In-Person	By Mail		
Michigan			•	
Minnesota	(b)	•		(a) •
Mississippi			•	
Missouri			•	(a)
Montana	(b)	•		(a) •
Nebraska	•	•		(a)
Nevada	•	•		(a)
New Hampshire			•	
New Jersey	(b)	•		(a) •
New Mexico	•	•		(a)
New York			•	
North Carolina	•	•		
North Dakota	•	•		(a)
Ohio	(b)	•		
Oklahoma	(b)	•		
Oregon				•
Pennsylvania			•	
Rhode Island			•	
South Carolina			•	
South Dakota	(b)	•		
Tennessee	•		•	
Texas	•		•	
Utah	•	•		•
Vermont	(b)	•		

State	In-Person	By Mail			
Virginia			•		
Washington				•	
West Virginia	•		•		
Wisconsin	(b)	•			
Wyoming	(b)	•			
TOTAL	34 states + DC	27 states + DC	20 states	3 states	8 states + DC

Source: National Conference of State Legislatures, January 2016.

(a) Certain elections may be held entirely by mail. The circumstances under which all-mail elections are permitted vary from state to state.

(b) Although these states do not have Early Voting in the traditional sense, within a certain period of time before an election they do allow a voter to apply in person for an absentee ballot (without an excuse) and cast that ballot in person to an election official's office. This is often known as "in-person absentee" voting.

(c) Massachusetts has Early Voting only during even-year November elections, beginning in 2016. Currently it does not permit Early Voting in primaries or municipal elections.

Early Voting

More than two-thirds of the states—37, plus the District of Columbia—offer some sort of early voting. Early voting allows voters to visit an election official's office or, in some states, other satellite voting locations, and cast a vote in person without offering an excuse for why the voter is unable to vote on Election Day. Some states also allow voters to receive, fill out and cast absentee ballot in person at the elections office or at a satellite location rather than returning it through the mail. This is often referred to as in-person absentee voting. Satellite voting locations vary by state, and may include other county and state offices (besides the election office), grocery stores, shopping malls, schools, libraries, and other locations. More detailed information can be found on NCSL's State Laws Governing Early Voting page.

The time period for early voting varies from state to state:

- The date on which early voting begins may be as early as 45 days before the election, or as late as the Friday before the election. The average starting time for early voting across all 34 states is 22 days before the election.
- Early voting typically ends just a few days before Election Day: seven days before the election in two states, on Thursday before the election in one state, the Friday before in eight states, the Saturday before in seven states and the Monday before Election Day in 13 states.
- Early voting periods range in length from four days to 45 days; the average across all 33 states is 19 days.
- Of the states that allow early in-person voting, 22 and the District of Columbia allow some weekend early voting:
 - Saturday: 18 states + the District of Columbia provide for voting on Saturday. 4 additional states (California, Kansas, Vermont and Massachusetts) leave it up to county clerks who may choose to allow Saturday voting.
 - Sunday: 4 states (Alaska, Illinois, Ohio and Maryland) allow for Sunday voting. 5 states (California, Florida, Georgia, Nevada and Massachusetts) leave it up to county clerks who may choose to be open on Sunday.

No-Excuse Absentee Voting

Absentee voting is conducted by mail-in paper ballot prior to the day of the election. States typically require that a voter fill out an application to receive an absentee ballot. Many states help facilitate this process by making absentee ballot applications available online for voters to print and send, and at least states (Florida, Louisiana, Maryland, Minnesota and Utah) permit a voter to submit an application entirely online. Arizona has some counties that have online absentee ballot applications, and in Detroit, Michigan, voters can request an absentee ballot through a smartphone app.

While all states offer some version of absentee voting, there is quite a lot of variation in states' procedures. For instance, some states offer "no-excuse" absentee voting, allowing any registered voter to request an absentee without requiring that the voter state a reason his/her desire to vote absentee. Some states also allow a time period before the election for voters to appear at the elections office or other designated location in person to request, fill out and cast an absentee ballot in on stop. Still, some states permit voters to vote absentee only under a limited set of circumstances.

The following 27 states and D.C. offer "no-excuse" absentee voting:

NO-EXCUSE ABSENTEE VOTING

Alaska	Kansas	North Dakota
Arizona	Maine	Ohio
California	Maryland	Oklahoma
District of Columbia	Minnesota	South Dakota
Florida	Montana	Utah
Georgia	Nebraska	Vermont
Hawaii	Nevada	Wisconsin
Idaho	New Jersey	Wyoming
Illinois	New Mexico	
Iowa	North Carolina	

Source: National Conference of State Legislatures, January 2016

Permanent Absentee Voting

Some states permit voters to join a permanent absentee voting list. Once a voter opts in, s/he will receive an absentee ballot automatically for all future elections. The states that offer permanent absentee voting to any voter are:

- Arizona: Ariz. Rev. Stat. §16-544(A)
- California: Cal. Elec. Code §3200
- Connecticut
- District of Columbia: D.C. Law §1-1001.07
- Hawaii: Hawaii Rev. Stat. §15-4(c)
- Minnesota: Minn. Rev. Stat. §203B.04(5)
- Montana: Mont. Code Ann. §13-13-212(4)
- New Jersey: N.J. Stat. §19:63-3(e)
- Utah: Utah Code §20A-3-304(4)

At least eight states offer permanent absentee status to a limited number of voters who meet certain criteria:

- Alaska (Alaska Admin. Code tit. 6, § 25.650) - voters

- who reside in a remote area where distance, terrain, or other natural conditions deny the voter reasonable access to the polling place
- Delaware (Del. Code Ann. Tit. 15, §5503(k)) - military and overseas voters, and their spouses and dependents; voters who are ill or physically disabled; voters who are otherwise authorized by federal law to vote by absentee ballot
- Kansas (Kan. Stat. Ann. §25-1122(g)) - voters with a permanent disability or an illness diagnosed as permanent
- Massachusetts (Mass. Gen. Laws ch. 54, §86) - permanently disabled voters
- Mississippi (Miss. Code Ann. § 23-15-629) - permanently disabled voters
- Missouri (Mo. Rev. Stat. §115.284) - permanent disabled voters
- New York (N.Y. Election Law §8-400) - permanent disabled voters
- West Virginia (W. Va. Code §3-3-2(b)) - voters who are permanently and totally disabled and unable to vote at the polls

Mail Voting

Three states -- Oregon, Washington and Colorado -- conduct all elections by mail. A ballot is automatically mailed to every registered voter in advance of Election Day, and traditional in-person voting precincts are not available. However, these states still provide one or more locations for voters to return mail ballots, vote in-person if they would like, and receive other voter services. Learn more about each state's vote-by-mail program: Oregon, Washington, Colorado.

Nineteen other states allow certain elections to be held by mail. More information can be found on NCSL's All-Mail Elections (aka Vote-By-Mail) webpage.

Early and Absentee Voting in Your State

Are you looking for information on how to vote early or by absentee ballot in an upcoming election? While NCSL is not involved in holding elections and cannot provide information or advice on how, when or where to vote in your state, we are pleased to provide this link to a page which will direct you to the answers you need regarding your state's laws: [Vote?](#)

Military Voters

All states permit members of the military who are stationed overseas, their dependents, and other U.S. citizens living abroad to vote by absentee ballot. For more information, please visit the Overseas Vote Foundation.

Additional Resources

- [NCSL's State Laws Governing Early Voting page](#)
- Article from NCSL's elections newsletter, *The Canvass*: Pre-Election Day Voting—Just the FAQs, Ma'am
- FVAP's Absentee and Early Voting Myths and Realities Fact Sheet
- NCSL's video Q&A with MIT's Charles Stewart III on early voting and turnout
- The Early Voting Information Center (EVIC) based at Reed College
- The U.S. Vote Foundation has state dates deadlines for requesting and returning absentee ballots, as well as early voting periods
- Long Distance Voter, a non-profit with information on registering and voting by mail

NCSL Member Toolbox

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