



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

John McNeal  
SCPD Director

**MEMORANDUM**

DATE: February 21, 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. 47 (Absentee Voting)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 47, which would remove the notary requirement for requests for absentee ballots. Delaware is the only state that requires a notary to authorize a voter's affidavit for an absentee ballot. In some cases, the potential voter may have to pay for the notary and Delaware essentially charges them to vote.

SCPD has the following observations.

First, the legislation would benefit individuals with disabilities who may disproportionately rely on absentee ballots given variable health or difficulty traveling to polling sites.

Second, the notary requirement has already been "diluted" in the Delaware Code. Absentee ballots are authorized based on eight (8) discrete scenarios/justifications. See 15 Del.C. §5502. The Code already authorizes "self-administration" of an absentee ballot affidavit for at least half of the scenarios/justifications:

(e) Notwithstanding any other provision of this section to the contrary, the affidavit of any elector desiring to receive an absentee ballot because the person qualifies under any of the reasons set forth in §5502 (1), (2), (4) or (7) of this title or because a person's business or occupation is providing care to his or her parent, spouse, or child who is living at home and requires constant care due to illness, disability, or injury, may be self-administered.

Title 15 Del.C. §5503. As a result, the existing process may be confusing to the public. The bill has the salutary effect of making the process for requesting an absentee ballot uniform which reduces confusion and facilitates administration by the Department of Elections.

Third, criminal penalties for submitting a false request are ostensibly still applicable. The application must be “subscribed and sworn to by the elector” (line 19). The Election Code authorizes prosecution resulting in fines and imprisonment if an individual engages in the following:

(7) Knowingly, wilfully or fraudulently does any unlawful act to secure an opportunity for himself or herself or for any other person to vote.

Title 15 Del.C. §5128. Moreover, false swearing in a written instrument may qualify as perjury. See Title 11 Del.C. §§1221,1222, and 1224.

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

cc: Mr. Brian Hartman, Esq.  
Governor’s Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

HB 47 absentee voting 2-23-17