

SENATE, No. 685

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

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District 20 (Union)

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SYNOPSIS

Reduces number of voters for whom person can serve as messenger; limits to three number of voted mail-in ballots transmittable by bearer; modifies conviction standard under vote by mail law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning the transmission and return of vote by mail
2 ballots, and amending P.L.2009, c.79.

3

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

6

7 1. Section 4 of P.L.2009, c.79 (C.19:63-4) is amended to read
8 as follows:

9 4. a. A qualified voter is entitled to apply for and obtain a mail-
10 in ballot by authorized messenger, who shall be so designated over
11 the signature of the voter and whose printed name and address shall
12 appear on the application in the space provided. The authorized
13 messenger shall be a family member or a registered voter of the
14 county in which the application is made and shall place his or her
15 signature on the application in the space so provided in the presence
16 of the county clerk or the designee thereof. No person shall serve
17 as an authorized messenger or as a bearer for more than **[10]** three
18 qualified voters in an election. No person who is a candidate in the
19 election for which the voter requests a mail-in ballot shall be
20 permitted to serve as an authorized messenger or bearer. The
21 authorized messenger shall show a photo identification card to the
22 county clerk, or the designee thereof, at the time the messenger
23 submits the application form. The county clerk or the designee
24 thereof shall authenticate the signature of the authorized messenger
25 in the event such a person is other than a family member, by
26 comparing it with the signature of the person appearing on a State
27 of New Jersey driver's license, or other identification issued or
28 recognized as official by the federal government, the State, or any
29 of its political subdivisions, providing the identification carries the
30 full address and signature of the person. After the authentication of
31 the signature on the application, the county clerk or the designee
32 thereof is authorized to deliver to the authorized messenger a ballot
33 to be delivered to the qualified voter.

34 b. The Secretary of State shall cause to be prepared a standard
35 authorized messenger application form, which may be included with
36 the mail-in ballot application forms. The authorized messenger
37 section of the application shall contain the following language
38 above the signature of the authorized messenger: "I do hereby
39 certify that I will deliver the mail-in ballot directly to the voter and
40 no other person, under penalty of law."

41 (cf: P.L.2009, c.79, s.4)

42

43 2. Section 6 of P.L.2009, c.79 (C.19:63-6) is amended to read
44 as follows:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 6. a. The county clerk, in the case of any Statewide election,
2 countywide election, or school election in a regional or other school
3 district comprising more than one municipality; the municipal clerk,
4 in the case of any municipal election or school election in a school
5 district comprising a single municipality; and the commissioners or
6 other governing or administrative body of the district, in the case of
7 any election to be held in any fire district or other special district,
8 other than a municipality, created for specified public purposes
9 within one or more municipalities, shall publish the following
10 notice in substantially the following form:

11 NOTICE TO PERSONS WANTING MAIL-IN BALLOTS

12 If you are a qualified and registered voter of the State who wants
13 to vote by mail in the..... (school, municipal, primary,
14 general, or other) election to be held on..... (date of election)
15 complete the application form below and send to the undersigned,
16 or write or apply in person to the undersigned at once requesting
17 that a mail-in ballot be forwarded to you. The request must state
18 your home address and the address to which the ballot should be
19 sent. The request must be dated and signed with your signature.

20 If any person has assisted you to complete the mail-in ballot
21 application, the name, address and signature of the assistor must be
22 provided on the application, and you must sign and date the
23 application for it to be valid and processed. No person shall serve
24 as an authorized messenger or as a bearer for more than **[10]** three
25 qualified voters in an election. No person who is a candidate in the
26 election for which the voter requests a mail-in ballot may provide
27 any assistance in the completion of the ballot or may serve as an
28 authorized messenger or bearer.

29 No mail-in ballot will be provided to any applicant who submits
30 a request therefor by mail unless the request is received at least
31 seven days before the election and contains the requested
32 information. A voter may, however, request an application in
33 person from the county clerk up to 3 p.m. of the day before the
34 election.

35 Voters who want to vote only by mail in all future general
36 elections in which they are eligible to vote, and who state that on
37 their application shall, after their initial request and without further
38 action on their part, be provided a mail-in ballot by the county clerk
39 until the voter requests that the voter no longer be sent such a
40 ballot. A voter's failure to vote in the fourth general election
41 following the general election at which the voter last voted may
42 result in the suspension of that voter's ability to receive a mail-in
43 ballot for all future general elections unless a new application is
44 completed and filed with the county clerk.

45 Voters also have the option of indicating on their mail-in ballot
46 applications that they would prefer to receive mail-in ballots for
47 each election that takes place during the remainder of this calendar

1 year. Voters who exercise this option will be furnished with mail-in
2 ballots for each election that takes place during the remainder of
3 this calendar year, without further action on their part.

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

8 Dated.....
9

10 (signature and title of county clerk)

11

12 (address of county clerk)

13

14 (telephone no. of county clerk)

15 b. (1) The Secretary of State shall be responsible for providing
16 all information regarding overseas ballots to each overseas voter
17 eligible for such a ballot pursuant to P.L.1976, c.23 (C.19:59-1 et
18 seq.). The secretary shall also make available valid overseas voter
19 registration and ballot applications to any voter who is a member of
20 the armed forces of the United States and who is a permanent
21 resident of this State, or who is an overseas voter who wishes to
22 register to vote or to vote in any jurisdiction in this State. The
23 secretary shall provide such public notice as may be deemed
24 necessary to inform members of the armed forces of the United
25 States and overseas voters how to obtain valid overseas voter
26 registration and ballot applications.

27 (2) The Secretary of State shall undertake a program to inform
28 voters in this State about their eligibility to vote by mail pursuant to
29 this act. Dissemination of this information shall be included in the
30 standard notices required by this section and other provisions of
31 current law, including but not limited to the notice requirements of
32 R.S.19:12-7, and shall be effectuated by such means as the secretary
33 deems appropriate and to the extent that funds for such
34 dissemination are appropriated including, but not limited to, by
35 means of Statewide or local electronic media, public service
36 announcements broadcast by such media, notices on the Internet site
37 of the Department of State or any other department or agency of the
38 Executive Branch of State government or its political subdivisions
39 deemed appropriate by the secretary, and special mailings or notices
40 in newspapers or other publications circulating in the counties or
41 municipalities of this State.

42 c. The mail-in ballot materials shall contain a notice that any
43 person voting by mail-in ballot who has registered by mail after
44 January 1, 2003, who did not provide personal identification
45 information when registering and is voting for the first time in his
46 or her current county of residence following registration shall
47 include copies of the required identification information with the

1 mail-in ballot, and that failure to include such information shall
2 result in the rejection of the ballot.

3 d. The notice provided for in subsection a. of this section shall
4 be published before the 55th day immediately preceding the holding
5 of any election.

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

15 (cf: P.L.2011, c.134, s.50)

16

17 3. Section 9 of P.L.2009, c.79 (C.19:63-9) is amended to read
18 as follows:

19 9. a. Starting on or before the 45th day before the day an
20 election is held, each county clerk shall forward mail-in ballots by
21 first-class postage or hand delivery to each mail-in voter whose
22 request therefor has been approved. Mail-in ballots that have been
23 approved before the 45th day before an election shall be forwarded
24 or delivered at least 45 days before the day of the election. Hand
25 delivery of a mail-in ballot shall be made by the county clerk or the
26 clerk's designee only to the voter, or the voter's authorized
27 messenger, who must appear in person. No person shall serve as an
28 authorized messenger for more than **【10】** three qualified voters in
29 an election. Ballots that have not been hand delivered shall be
30 addressed to the voter at the forwarding address given in the
31 application.

32 b. (1) Whenever the clerk forwards a mail-in ballot by mail to a
33 mail-in voter between the 45th day and the 13th day before the day
34 of an election, the ballot shall be transmitted within three business
35 days of the receipt of the application.

36 (2) Whenever the clerk forwards a mail-in ballot by mail to a
37 mail-in voter between the 12th day and the seventh day before the
38 day of an election, the ballot shall be transmitted within two
39 business days of the receipt of the application.

40 The provisions of this subsection shall not apply to: (a) annual
41 school elections and special school elections in those school
42 districts holding such elections, pursuant to P.L.1995, c.278
43 (C.19:60-1 et seq.); (b) any municipality in which elections are
44 conducted by mail, pursuant to P.L.2005, c.148 (C.19:62-1 et seq.);
45 (c) annual elections for members of the boards of fire district
46 commissions, pursuant to N.J.S.40A:14-72; and (d) the vote on any
47 public question submitted to the voters of a local unit to increase

1 the amount to be raised by taxation by more than the allowable
2 adjusted tax levy, pursuant to section 11 of P.L.2007, c.62
3 (C.40A:4-45.46).

4 c. (Deleted by amendment, P.L.2011, c.37).

5 (cf: P.L.2011, c.37, s.31)

6

7 4. Section 12 of P.L.2009. c.79 (C.19:63-12) is amended to
8 read as follows:

9 12. Each county clerk shall send, with each mail-in ballot,
10 printed directions for the preparation and transmitting of the ballots
11 as required by this act. The directions shall be printed in such
12 manner and form as the Secretary of State shall require, together
13 with two envelopes of such sizes that one will contain the other.

14 The outer envelope shall be addressed to the county board of
15 elections of the county in which is located the home address of the
16 person to whom the mail-in ballot is sent, as certified by the county
17 clerk. At the discretion of the county clerk, the outer envelope may
18 be a postage paid return envelope. On the outside and front of each
19 outer envelope, there shall be printed or stamped the following:

20 To protect your vote:

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

25 Ballot mailed or transported by

26 (signature of bearer)

27 (print name of bearer)

28 (address of bearer)

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

31 REMINDER

32 For your vote to count, you must:

33 1) Vote your ballot and place it in the inner envelope with the
34 attached certificate.

35 2) Seal the envelope.

36 3) Place the envelope into the larger envelope addressed to the
37 board of elections and seal that envelope.

38 4) If another person will be mailing your ballot or bringing it to
39 the board of elections, MAKE CERTAIN THAT PERSON
40 COMPLETES THE "BEARER PORTION" ON THE ENVELOPE
41 ADDRESSED TO THE BOARD OF ELECTIONS BEFORE THE
42 BALLOT IS TAKEN FROM YOU. NO PERSON WHO IS A
43 CANDIDATE IN THE ELECTION FOR WHICH THE VOTER
44 REQUESTS THIS BALLOT IS PERMITTED TO SERVE AS A
45 BEARER. NO PERSON IS PERMITTED TO SERVE AS A
46 BEARER FOR MORE THAN THREE QUALIFIED VOTERS IN
47 AN ELECTION.

1 The Secretary of State is authorized to make such changes to the
2 instructions for mail-in ballot materials as the Secretary of State
3 deems necessary or as is mandated by federal or State law.

4 The inner envelope shall be so designed that it can be sealed
5 after the mail-in ballot has been placed therein and the flap thereof
6 shall be of such length and size as to leave sufficient margin, after
7 sealing, for the printing thereon of the certificate hereinafter
8 described. The flap shall be so arranged that, after the inner
9 envelope has been sealed, the certificate can be contained, with the
10 inner envelope, in the outer envelope, and that the margin
11 containing the certificate can be detached without unsealing the
12 inner envelope.

13 On the outside of each envelope in which a mail-in ballot is sent
14 to a mail-in voter by the clerk, there shall be printed or stamped the
15 words "Official Mail-In Ballot." In addition, there shall be printed
16 or stamped the following:

17 To protect your vote:

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

21 However, a family member may assist you in doing so.

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

24 A PERSON MAY BE FINED AND IMPRISONED AND MAY
25 ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY
26 LAW if that person attempts to vote fraudulently by mail-in ballot,
27 prevents the voting of a legal voter, certifies falsely any
28 information, interferes with a person's secrecy of voting, tampers
29 with ballots or election documents or helps another person to do so.
30 (cf: P.L.2009, c.79, s.12)

31

32 5. Section 16 of P.L.2009, c.79 (C.19:63-16) is amended to
33 read as follows:

34 16. a. A mail-in voter shall be entitled to mark any mail-in
35 ballot forwarded to the voter for voting at any election by indicating
36 the voter's choice of candidates for the offices named, and as to
37 public questions, if any, stated thereon, in accordance with current
38 law. In the case of ballots to be voted for any primary election for
39 the general election, as the case may be, the voter's choice shall be
40 limited to the candidates of the voter's political party or to any
41 person or persons whose names are written thereon by the voter.
42 When so marked, such ballot shall be placed in the inner envelope,
43 which shall then be sealed, and the voter shall then fill in the form
44 of certificate attached to the inner envelope, at the end of which the
45 voter shall sign and print the voter's name. The inner envelope with
46 the certificate shall then be placed in the outer envelope, which
47 shall then be sealed.

1 b. No mail-in voter shall permit any person in any way, except
2 as provided by this act, to unseal, mark or inspect the voter's ballot,
3 interfere with the secrecy of the voter's vote, complete or sign the
4 certificate, or seal the inner or outer envelope, nor shall any person
5 do so.

6 c. A mail-in voter shall be entitled to assistance from a family
7 member in performing any of the actions provided for in this
8 section. The family member or other person providing such
9 assistance shall certify that he or she assisted the voter and will
10 maintain the secrecy of the vote by both printing and signing his or
11 her name in the space provided on the certificate. In no event may a
12 candidate for election provide such assistance, nor may any person,
13 at the time of providing such assistance, campaign or electioneer on
14 behalf of any candidate.

15 d. (1) The sealed outer envelope with the inner envelope and
16 the ballot enclosed therein shall then either be mailed to the county
17 board of elections to which it is addressed or delivered personally
18 by the voter or a bearer designated by the voter to the board. To be
19 counted, the ballot must be received by the board or its designee
20 before the time designated by R.S.19:15-2 or R.S.19:23-40 for the
21 closing of the polls, as may be appropriate, on the day of an
22 election.

23 (2) Whenever a person delivers a ballot to the county board, that
24 person shall provide proof of the person's identity in the form of a
25 New Jersey driver's license, or another form of identification issued
26 or recognized as official by the federal government, the State, or
27 any of its subdivisions, providing the identification carries the full
28 address and signature of the person. The person shall sign a record
29 maintained by the county of all mail-in ballots personally delivered
30 to it.

31 (3) No person shall serve as an authorized messenger or as a
32 bearer for more than **【10】** three qualified voters in an election. No
33 person who is a candidate in the election for which the voter
34 requests a mail-in ballot shall be permitted to serve as an authorized
35 messenger or bearer. The bearer, by signing the certification
36 provided for in section 12 of P.L.2009, c.79 (C.19:63-12), certifies
37 that he or she received a mail-in ballot directly from the voter, and
38 no other person, and is authorized to deliver the ballot to the
39 appropriate board of election or designee on behalf of the voter.
40 (cf: P.L.2011, c.134, s.54)

41

42 6. Section 28 of P.L.2009, c.79 (C.19:63-28) is amended to
43 read as follows:

44 28. a. Any person who knowingly **【and with intent to commit**
45 **fraud】** violates any of the provisions of P.L.2009, c.79 (C.19:63-1
46 et al.), or who, not being entitled to vote thereunder, fraudulently
47 votes or attempts to vote thereunder, or enables or attempts to

1 enable another person not entitled to vote thereunder to vote
2 fraudulently thereunder, or who prevents or attempts to prevent by
3 fraud the voting of any person legally entitled to vote under this act,
4 or who shall knowingly certify falsely in any paper required under
5 this act, or who, at any time, tampers with any ballot or document
6 used in an election or interferes with the secrecy of the voting of
7 any person, is guilty of a crime of the third degree, and upon
8 conviction thereof shall be subject, in addition to such other
9 penalties as are authorized by law, to disenfranchisement, unless
10 and until pardoned or restored by law to the right of suffrage.

11 b. Any person who knowingly [and with intent to commit
12 fraud] aids and abets another in violating any of the provisions of
13 this section is guilty of a crime of the third degree and upon
14 conviction thereof shall be subject, in addition to such other
15 penalties as are authorized by law, to disenfranchisement, unless
16 and until pardoned or restored by law to the right of suffrage.

17 (cf: P.L.2009, c.79, s.28)

18

19 7. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 This bill provides that no person is permitted to serve as an
25 authorized messenger for a mail-in ballot or as a bearer of a voted
26 mail-in ballot for more than three qualified voters in an election.
27 Current law permits a person to serve as an authorized messenger
28 for no more than 10 qualified voters in an election, but sets no limit
29 on the number of voted ballots a bearer may collect.

30 The bill requires that when the person serving as a bearer
31 delivers a voted mail-in ballot to the county board of elections, the
32 person must provide proof of his or her identity in the form of a
33 New Jersey driver's license, or another form of identification issued
34 or recognized as official by the federal government, the State, or
35 any of its subdivisions, providing the identification carries the full
36 address and signature of the person.

37 The bill also changes the standard of conviction under "The Vote
38 By Mail Law" from "knowingly with intent to commit fraud" to
39 only "knowingly" violating any of the provisions of the law.