

SENATE, No. 2100

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Co-Sponsored by:

Senators Cruz-Perez and Diegnan

SYNOPSIS

Removes prohibition on voting by persons convicted of indictable offense who are on parole, probation, or serving sentence.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/26/2019)

1 AN ACT concerning the right to vote by persons convicted of an
2 indictable offense, supplementing chapter 4 of Title 19 of the
3 Revised Statutes, and amending and repealing various parts of
4 the statutory law.

5

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

8

9 1. (New section) The Legislature finds and declares:

10 a. Voting is both a fundamental right and a civic duty.

11 b. In New Jersey, over 94,000 people were denied the right to
12 vote in 2016 because they were serving a sentence or on probation
13 or parole for an indictable offense. This is more people than reside
14 in New Jersey's capital city of Trenton.

15 c. New Jersey first denied the right to vote, and permitted the
16 Legislature to deny by law the right to vote, on account of a
17 criminal conviction as part of its Constitution of 1844.

18 d. The law in its current form was enacted decades prior to the
19 dramatic increases in incarceration experienced by New Jersey and
20 the nation over the past 40 years.

21 e. Nearly half of those denied the right to vote because of a
22 criminal conviction are Black, due to racial disparities in the
23 criminal justice system.

24 f. There is no evidence that denying the right to vote to people
25 with criminal convictions serves any legitimate public safety
26 purpose.

27 g. Denying the right to vote to people with criminal convictions
28 unnecessarily burdens law enforcement, election officials, and New
29 Jersey residents. Administering New Jersey's current law requires
30 involvement from multiple public safety agencies, as well as State
31 and local election officials, and average citizens need to understand
32 principles of the criminal law in order to know who is or is not
33 eligible to vote.

34 h. This act, P.L. , c. (pending before the Legislature as this
35 bill), would conserve law enforcement resources and create a
36 bright-line rule so that average citizens are not wrongly denied their
37 right to vote due to confusion or mistake.

38

39 2. N.J.S.2A:167-5 is amended to read as follows:

40 2A:167-5. Any person who has been convicted of a crime and by
41 reason thereof has been deprived **【of the right of suffrage or】** of
42 any **【other】** of his civil rights or privileges, or upon whom there has
43 been imposed a fine or who has suffered a forfeiture, except
44 disqualification to hold and enjoy any public office of honor, profit
45 or trust in this state under judgment of impeachment, may make

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 application for the restoration **【of the right of suffrage or】** of such
2 **【other】** rights or privileges or for the suspension or remission of
3 such fine or forfeiture, which application the governor may grant by
4 order signed by him.

5 (cf: P.L.1951, c.344, s.1)

6

7 3. N.J.S.2C:51-3 is amended to read as follows:

8 2C:51-3. A person who is convicted of a crime shall be
9 disqualified

10 a. **【From voting in any primary, municipal, special or general**
11 election as determined by the provisions of R.S. 19:4-1; and**】**
12 (Deleted by amendment, P.L. , c.) (pending before the
13 Legislature as this bill)

14 b. From serving as a juror as determined by the provisions of
15 N.J.S. 2A:69-1.

16 (cf: P.L.1979, c.178, s.106)

17

18 4. R.S.19:4-1 is amended to read as follows:

19 19:4-1. **【Except as provided in R.S.19:4-2 and R.S.19:4-3,**
20 every**】** Every person possessing the qualifications required by
21 Article II, paragraph 3, of the Constitution of the State of New
22 Jersey and having none of the disqualifications hereinafter stated
23 and being duly registered as required by Title 19, shall have the
24 right of suffrage and shall be entitled to vote in the polling place
25 assigned to the election district in which he actually resides, and not
26 elsewhere; provided, however, that any person serving a sentence of
27 incarceration for an indictable offense under the laws of this state or
28 another state or the United States shall be entitled to vote by mail-in
29 ballot, pursuant to the provisions of “The Vote By Mail Law,”
30 P.L.2009, c.79 (C.19:63-1 et seq.), in the district in which the
31 person resided immediately prior to incarceration.

32 No person shall have the right of suffrage--

33 (1) Who has been adjudicated by a court of competent
34 jurisdiction to lack the capacity to understand the act of voting**【;**
35 **or】**.

36 (2) (Deleted by amendment.)

37 (3) (Deleted by amendment.)

38 (4) (Deleted by amendment.)

39 (5) (Deleted by amendment.)

40 (6) **【Who has been convicted of a violation of any of the**
41 provisions of this Title, for which criminal penalties were imposed,
42 if such person was deprived of such right as part of the punishment
43 therefor according to law unless pardoned or restored by law to the
44 right of suffrage; or**】** (Deleted by amendment, P.L. , c.) (pending
45 before the Legislature as this bill)

46 (7) **【Who shall be convicted of the violation of any of the**
47 provisions of this Title, for which criminal penalties are imposed, if

1 such person shall be deprived of such right as part of the
2 punishment therefor according to law, unless pardoned or restored
3 by law to the right of suffrage; or **】** (Deleted by amendment, P.L. ,
4 c.) (pending before the Legislature as this bill)

5 (8) **【**Who is serving a sentence or is on parole or probation as
6 the result of a conviction of any indictable offense under the laws of
7 this or another state or of the United States.**】** (Deleted by
8 amendment, P.L. , c.) (pending before the Legislature as this
9 bill)

10 A person who will have on the day of the next general election
11 the qualifications to entitle him to vote shall have the right to be
12 registered for and vote at such general election and register for and
13 vote at any election, intervening between such date of registration
14 and such general election, if he shall be a citizen of the United
15 States and shall meet the age and residence requirements prescribed
16 by the Constitution of this State and the laws of the United States,
17 when such intervening election is held, as though such
18 qualifications were met before registration.

19 (cf: P.L.2010, c.50, s.17)

20

21 5. Section 6 of P.L.1991, c.249 (C.19:15-18.3) is amended to
22 read as follows:

23 6. Any person whose name does not appear on a challenge list
24 prepared by the superintendent of elections of the county but who is
25 challenged and denied the right to vote on the day of a municipal,
26 primary, general, or special election by a duly authorized challenger
27 or by a member of a district board of elections, may apply to a
28 Superior Court judge sitting at the county seat for permission to
29 vote. No papers need be filed; the court shall entertain oral
30 applications. The challenged voter may appear pro se or with
31 counsel. The challenger or the member of the district board, as the
32 case may be, may appear or be represented by counsel. The
33 challenged voter shall be permitted to state by oath or affirmation
34 the facts which the voter believes establish eligibility to vote, shall
35 furnish a copy of the affidavit the voter signed when challenged, a
36 copy of the affidavit signed by the challenger and the identifying
37 document found invalid by the challenger and the district board.
38 The rules of evidence shall not apply to those proceedings. The
39 judge shall grant the application and provide the challenged voter
40 with written authorization to vote on that day if the judge finds the
41 following facts to be established by the testimony of the applicant
42 or, in the case of a dispute of facts or some questions as to the
43 challenged voter's credibility, by a preponderance of the following
44 evidence:

45 a. The challenged voter is at least 18 years old and a citizen of
46 the United States and of this State, has resided in the county at least
47 30 days prior to the date of the election, **【**and has not been

1 convicted of a crime which would disenfranchise a person under the
2 laws of this State,】 and either:

3 b. The challenged voter is properly registered at his location; or

4 c. The challenged voter was properly registered at his location
5 as of the last election at which the challenged voter voted but has
6 moved to another location within the county since then and in good
7 faith attempted to register at the new address within the time
8 prescribed by law.

9 For the purposes of this section, a good faith attempt to register
10 shall include: completing the prescribed registration form no later
11 than 21 days before the election in the presence of a person who
12 appears to be over 18 years old and says that he or she can and will
13 witness the form and mail it to the register for the applicant;
14 completing a form received in the mail from the commissioner of
15 registration, superintendent of elections or the county board which
16 states that information has been received that the applicant has
17 moved and placing the completed form in a proper mailbox with
18 proper postage, if necessary, no later than 21 days before the
19 election; completing a registration form in any government office;
20 and reasonably relying upon the oral statements of an official at a
21 polling place that they will insure proper reregistration.

22 The judge of the Superior Court having the application shall
23 cause a full record of the proceeding to be taken stenographically,
24 transcribed and filed in the office of the county clerk of the county,
25 which record shall be open and public record. All costs and
26 expenses of such proceedings shall be paid by the county.

27 (cf: P.L.2005, c.139, s.5)

28

29 6. R.S.19:29-1 is amended to read as follows:

30 19:29-1. The nomination or election of any person to any public
31 office or party position, or the approval or disapproval of any public
32 proposition, may be contested by the voters of this State or of any
33 of its political subdivisions affected thereby upon 1 or more of the
34 following grounds:

35 a. Malconduct, fraud or corruption on the part of the members
36 of any district board, or of any members of the board of county
37 canvassers, sufficient to challenge the result;

38 b. When the incumbent was not eligible to the office at the time
39 of the election;

40 c. 【When the incumbent had been duly convicted before such
41 election of any crime which would render him incompetent to
42 exercise the right of suffrage, and the incumbent had not been
43 pardoned at the time of the election;】 (Deleted by amendment,
44 P.L. , c.) (pending before the Legislature as this bill)

45 d. When the incumbent had given or offered to any elector or
46 any member of any district board, clerk or canvasser, any bribe or
47 reward, in money, property or thing of value for the purpose of
48 procuring his election;

- 1 e. When illegal votes have been received, or legal votes
- 2 rejected at the polls sufficient to change the result;
- 3 f. For any error by any board of canvassers in counting the
- 4 votes or declaring the result of the election, if such error would
- 5 change the result;
- 6 g. For any other cause which shows that another was the person
- 7 legally elected;
- 8 h. The paying, promise to pay or expenditure of any money or
- 9 other thing of value or incurring of any liability in excess of the
- 10 amount permitted by this title for any purpose or in any manner not
- 11 authorized by this title;
- 12 i. When a petition for nomination is not filed in good faith or
- 13 the affidavit annexed thereto is false or defective.

14 The term "incumbent" means the person whom the canvassers
 15 declare elected or the person who is declared elected as a result of
 16 a recount; but in the case of a tie vote as a result of the canvass or
 17 recount, either party may contest the election, in which case the
 18 term "incumbent" means the person having an equal number of
 19 votes with the contestant.
 20 (cf: P.L.1956, c.128, s.1)

21
 22 7. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to
 23 read as follows:

24 16. a. The Secretary of State shall cause to be prepared and
 25 shall provide to each county commissioner of registration forms of
 26 size and weight suitable for mailing, which shall require the
 27 information required by R.S.19:31-3 in substantially the following
 28 form:

29 VOTER REGISTRATION APPLICATION

30 Print clearly in ink. Use ballpoint pen or marker.

31 (1) This form is being used as (check one):

32 New registration

33 Address change

34 Name change

35 (2) Name:.....

36 Last First Middle

37 (3) Are you a citizen of the United States of America?YesNo

38 (4) Will you be 18 years of age on or before election
 39 day?Yes No

40 If you checked 'No' in response to either of these questions, do
 41 not complete this form.

42 (5) Street Address where you live:

43

44 Street Address Apt. No.

45

46 (6) City or Town County Zip Code

47 (7) Address Where You Receive Your Mail (if different from
 48 above):

S2100 RICE, CUNNINGHAM

1
2 (8) Date of Birth:
3
4 Month Day Year
5 (9) (a) Telephone Number (optional).....
6 (b) E-Mail Address (optional).....
7 (10) Name and address of Your Last Voter Registration
8
9
10
11 (11) If you are registering by mail to vote and will be voting for
12 the first time in your current county of residence, please provide
13 one of the following:
14 (a) your New Jersey driver's license
15 number:.....
16 (b) the last four digits of your Social Security
17 Number.....
18 OR submit with this form a copy of any one of the following
19 documents: a current and valid photo identification card; a current
20 utility bill, bank statement, government check, pay check or any
21 other government or other identifying document that shows your
22 name and current address. If you do not provide either your New
23 Jersey driver's license number or the last four digits of your Social
24 Security Number, or enclose a copy of one of the documents listed
25 above, you will be asked for identification when voting for the first
26 time, unless you are exempt from doing so under federal or State
27 law.
28 (12) Do you wish to declare a political party affiliation?
29 (Optional):
30 YES. Name of Party:
31 NO. I do not wish to declare a political party affiliation
32 at this time.
33 (13) Declaration - I swear or affirm that:
34 I am a U.S. citizen.
35 I live at the above address.
36 I will be at least 18 years old on or before the day of the next
37 election.
38 **【I am not on parole, probation or serving a sentence due to a**
39 **conviction for an indictable offense under any federal or State**
40 **laws.】**
41 I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
42 REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO
43 \$15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
44 PURSUANT TO R.S.19:34-1.
45
46 Signature or mark of the registrant Date
47 (14) If applicant is unable to complete this form, print the name
48 and address of individual who completed this form.

1

2 Name

3

4 Address

5 In addition, the form may include notice to the applicant of
6 information and options relating to the registration and voting
7 process, including but not limited to notice of qualifications
8 required of a registered voter; notice of the final day by which a
9 person must be registered to be eligible to vote in an election;
10 notice of the effect of a failure to provide required identification
11 information; a place at which the applicant may indicate availability
12 for service as a member of the district board of elections; a place at
13 which the applicant may indicate whether he or she requires a
14 polling place which is accessible to individuals with disabilities and
15 the elderly or whether he or she is legally blind; a place at which
16 the applicant may indicate a desire to receive information
17 concerning absentee voting; and if the application indicates a
18 political party affiliation, the voter is permitted to vote in the
19 primary election of a political party other than the political party in
20 which the voter was affiliated previously only if the voter
21 registration form with the change of political party affiliation is
22 filed prior to the 50th day next preceding the primary election. The
23 form may also include a space for the voter registration agency to
24 record whether the applicant registered in person, by mail or by
25 other means.

26 b. The reverse side of the registration form shall bear the
27 address of the Secretary of State or the commissioner of registration
28 to whom such form is supplied, and a United States postal permit
29 the charges upon which shall be paid by the State.

30 c. The Secretary of State shall cause to be prepared registration
31 forms of the size, weight and form described in subsection a. of this
32 section in both the English and Spanish language and shall provide
33 such forms to each commissioner of registration of any county in
34 which there is at least one election district in which bilingual
35 sample ballots must be provided pursuant to R.S.19:14-21,
36 R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

37 d. The commissioner of registration shall furnish such
38 registration forms upon request in person to any person or
39 organization in such reasonable quantities as such person or
40 organization shall request. The commissioner shall furnish no
41 fewer than two such forms to any person upon request by mail or by
42 telephone.

43 e. Each such registration form shall have annexed thereto
44 instructions specifying the manner and method of registration and
45 stating the qualifications for an eligible voter.

46 f. The Secretary of State shall also furnish such registration
47 forms and such instructions to the Director of the Division of
48 Workers' Compensation, the Director of the Division of

1 Employment Services, and the Director of the Division of
2 Unemployment and Temporary Disability Insurance in the
3 Department of Labor and Workforce Development; to the Director
4 of the Division of Taxation in the Department of the Treasury; to
5 the Executive Director of the New Jersey Transit Corporation; to
6 the appropriate administrative officer of any other public agency, as
7 defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-
8 6.3); to the Adjutant General of the Department of Military and
9 Veterans' Affairs; and to the chief administrative officer of any
10 voter registration agency, as defined in subsection a. of section 26
11 of P.L.1994, c.182 (C.19:31-6.11).

12 g. All registration forms received by the Secretary of State in
13 the mail or forwarded to the Secretary of State shall be forwarded to
14 the commissioner of registration in the county of the registrant.

15 h. An application to register to vote received from the New
16 Jersey Motor Vehicle Commission or a voter registration agency, as
17 defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-
18 6.11), shall be deemed to have been timely made for the purpose of
19 qualifying an eligible applicant as registered to vote in an election if
20 the date on which the commission or agency shall have received
21 that document in completed form, as indicated in the lower right
22 hand corner of the form, was not later than the 21st day preceding
23 that election.

24 i. Each commissioner of registration shall make note in the
25 permanent registration file of each voter who is required to provide
26 the personal identification information required pursuant to this
27 section, as amended, and R.S.19:15-17, R.S.19:31-5 and Pub.L.107-
28 252 (42 U.S.C.s. 15301 et seq.), to indicate the type of
29 identification provided by the voter and the date on which it is
30 provided. Prior to the June 2004 primary election, when such a
31 newly registered voter seeks to vote for the first time following his
32 or her registration, the voter will be required to provide such
33 personal identification information. Beginning with the June 2004
34 primary election, when such a newly registered voter seeks to vote
35 for the first time following his or her registration, the voter will not
36 be required to provide such information if he or she had previously
37 provided the personal identification information required pursuant
38 to this section. The required information shall be collected and
39 stored for the time and in the manner required pursuant to
40 regulations promulgated by the Secretary of State.

41 j. The Secretary of State shall amend the voter registration
42 application form if necessary to conform to the requirements of
43 applicable federal or State law.

44 k. In the event that the name of any political party entered on
45 the voter registration form by a voter who wishes to declare a
46 political party affiliation is not legible, the commissioner of
47 registration shall mail the voter a political party declaration form
48 and a letter explaining that the voter's choice was not understood

1 and that the voter should complete and return the declaration form
2 in order to be affiliated with a party.

3 (cf: P.L.2009, c.287, s.1)

4

5 8. R.S.19:34-25 is amended to read as follows:

6 19:34-25. a. If a person shall, directly or indirectly, by himself or
7 by any other person in his behalf, give, lend or agree to give or
8 lend, or shall offer, promise or promise to procure, or endeavor to
9 procure, any money or other valuable consideration or thing to or
10 for any voter, or to or for any person, in order to induce any voter to
11 vote or refrain from registering for any election, or shall corruptly
12 do or commit any of the acts in this section mentioned because of
13 any such voter having voted or refrained from voting at an election,
14 or registered or refrained from registering at an election, he shall be
15 guilty of a crime of the third degree.

16 Bribery of member of election board; acceptance. b. Whosoever
17 shall, directly or indirectly, make or give any money or other thing
18 of value to any member of the district board because of his
19 membership on such board, or when it shall appear that such money
20 or other thing of value is made or given to such member because of
21 his membership on the board, except as hereinbefore provided as
22 his legal compensation for service on the board, shall be guilty of a
23 crime of the third degree.

24 Any member of a district board who shall, by himself, or by any
25 other person in his behalf, receive any money or other thing of
26 value because of his membership on such board, or when it shall
27 appear that such money or other thing of value is accepted or
28 received by such member because of his membership on the board,
29 except as hereinbefore provided as his legal compensation for
30 service on the board, shall be guilty of a crime of the third degree.

31 Promising office or employment. c. A person who shall directly
32 or indirectly, by himself or by any other person in his behalf, give
33 or procure, or agree to give or procure or offer or promise to
34 procure, or endeavor to procure any office, place or employment to
35 or for any voter, or to or for any person on behalf of such voter, or
36 to or for any other person, in order to induce such voter to vote or
37 refrain from voting, or to register or refrain from registering, or
38 shall corruptly do any act as above because of any voter having
39 voted or refrained from voting, or having registered or refrained
40 from registering for any election, shall be guilty of a crime of the
41 third degree.

42 Acceptance of bribe by voter. d. Any voter who shall directly or
43 indirectly, by himself or by any other person on his behalf, receive,
44 agree or contract for any money, gift, loan or valuable
45 consideration, office, place or employment for himself or for any
46 other person for voting or agreeing to vote, or for refraining or
47 agreeing to refrain from voting at any election, or for registering or
48 agreeing to register, or for refraining or for agreeing to refrain from

1 registering for any election, shall be guilty of a crime of the third
2 degree.

3 Bribery of delegates. e. If a person shall, directly or indirectly,
4 give, offer or promise to give any sum or sums of money or any
5 valuable thing in action, victuals, drink or preferment or other
6 considerations, by way of fee, reward, gift or gratuity, or other
7 valuable present or reward to obtain, procure or influence the
8 opinion, behavior, vote or abstaining from voting for the election of
9 any delegate to any convention of any political party, to nominate
10 any candidate for member of the legislature, for member of
11 congress, for electors for president and vice president of the United
12 States, for governor, or for any candidate for any office in any
13 county or municipality; or if any person being a delegate to any
14 political convention to nominate candidates for any of the offices
15 named in this title shall directly or indirectly, ask for, accept,
16 receive or take any sum or sums of money, or other valuable
17 consideration by way of fee, reward, gift or gratuity, or other
18 valuable consideration for the giving or refusing to give his vote at
19 any such convention, the person so offering, asking, or receiving
20 shall be guilty of a crime of the third degree.

21 Bribery at election. f. Whoever shall, directly or indirectly, give,
22 furnish, supply or promise, or cause to be given, furnished,
23 supplied, offered or promised, to any person or persons, any money,
24 service, preferment or valuable thing with the intent that such
25 money or valuable thing or any other money, service, preferment or
26 valuable thing shall be given, offered, promised or used, by any
27 person or persons, by way of fee, reward, gift or gratuity, for giving
28 or refusing to give any vote of any citizen, at any election of any
29 public officer, state, county or municipal, to be held therein, or of
30 any member of congress, of electors for president and vice president
31 of the United States, or at any election of any delegate or delegates
32 to any political convention to be held for the nomination of any of
33 the officers above, or by way of gift, gratuity or reward, for giving
34 or withholding the vote of any delegate at any such convention,
35 shall be guilty of a crime of the third degree.

36 Inducing voters. g. A person who shall, directly or indirectly, by
37 himself or by any other person in his behalf, give, lend, or agree to
38 give or lend, or procure, or agree to procure or offer or promise to
39 procure, or endeavor to procure, any money or other valuable
40 consideration or thing, or any office, place or employment to or for
41 any voter, or to or for any person, in order to induce such voter to
42 vote or refrain from registering or voting at any election, or shall
43 corruptly do or commit any of the acts in this section mentioned,
44 because of any voter having voted or refrained from voting or
45 having registered or refrained from registering for any election,
46 shall be guilty of a crime of the third degree.

47 Contributions for use in bribing. h. A person who shall give,
48 advance or pay, or cause to be given, advanced or paid, any money

1 or other valuable thing to any person, or to the use of any person,
2 with the intent that such money or other valuable thing, or any part
3 thereof, shall be expended, or used for bribery of voters, or for any
4 other unlawful purpose at any election, or who shall knowingly pay,
5 or cause to be paid money to any person wholly or in part expended
6 in bribery of a voter at any election, shall be guilty of a crime of the
7 third degree.

8 Receiving rewards. i. A person who shall, directly or indirectly,
9 by himself, or by any other person on his behalf, receive, agree or
10 contract for any money, gift, loan or valuable consideration, office,
11 place or employment for himself or for any other person for voting
12 or agreeing to vote, or for refraining or agreeing to refrain from
13 voting at any election, or for registering or agreeing to register, or
14 for refraining or for agreeing to refrain from registering for any
15 election, shall be guilty of a crime of the third degree.

16 Gift, or promise of, for certain purposes. j. No person shall give
17 or agree to give for the purpose of promoting or procuring or for the
18 purpose of opposing or preventing the election of a candidate for
19 public office, or for the purpose of promoting or procuring or for
20 the purpose of opposing or preventing the nomination of any person
21 as a candidate for public office, any money or any valuable thing to
22 be used for any of the following purposes:

23 1. To provide or give or to pay, wholly or in part, the expense
24 of giving or providing any meat, drink, entertainment or provision
25 to or for any person for the purpose of influencing that person or
26 any other person to give or refrain from giving his vote at any
27 election, or because of any such person or any other person having
28 voted or refrained from voting.

29 2. To provide for the payment of rent for or for the purpose of
30 providing and fitting up any clubroom for social or recreative
31 purposes, or providing for uniforms for any organized club.

32 3. To provide for the payment for the insertion in any
33 newspaper or magazine of any article tending to influence any
34 person to give or refrain from giving his vote to any candidate or
35 candidates at any election; or to provide for payment for the
36 distribution of any newspaper or magazine wherein any such article
37 is printed; or to provide for payment of the printing or of the
38 distribution of any circular, handbill, card, pamphlet or statement
39 tending to influence any person to give or refrain from giving his
40 vote to any candidate at any election; but this prohibition shall not
41 be construed to prohibit the printing and distribution of paid
42 advertisements, which advertisements shall be indicated by the
43 words "This advertisement has been paid for by " (inserting the
44 true name and address of the person or persons paying for the
45 same); nor shall it be construed to prohibit the printing and
46 distribution of circulars, handbills, cards, pamphlets or statements
47 which shall have printed on the face thereof the true name and
48 address of the person or persons paying for the printing and

1 distribution thereof, which fact shall be indicated by the words "The
2 cost of the printing and distribution of this circular (or as the case
3 may be) has been paid by " (inserting the true name and address of
4 the person or persons paying for the same).

5 Accepting gifts. k. No person shall accept any money or other
6 valuable thing, the payment of which is prohibited by paragraph "j"
7 of this section.

8 Penalty. 1. Any person who shall violate any of the provisions
9 of paragraphs "j" and "k" of this section shall be guilty of a crime of
10 the third degree, **and shall for the first offense be disfranchised for**
11 **a period of five years from the date of conviction, and for any**
12 **subsequent offense shall be perpetually disfranchised, and in**
13 **addition thereto** and for any subsequent offense **the court in which**
14 **such conviction is obtained** **[,] may** **in case of a subsequent**
15 **conviction,** **impose upon the person so convicted the punishment**
16 **now prescribed by law for a crime of the second degree.**

17 (cf: P.L.2005, c.154, s.43)

18

19 9. R.S.19:34-46 is amended to read as follows:

20 19:34-46. In addition to any penalties provided for violation of
21 any of the provisions of this title, the court imposing such penalty
22 may add thereto that such offender be thenceforth **disfranchised as**
23 **a voter and** **disqualified to hold any office of trust or profit within**
24 **this state for such length of time as such court deems proper.**

25 (cf: R.S.19:34-46)

26

27 10. Section 33 of P.L.1964, c.134 (C.19:58-33) is amended to
28 read as follows:

29 33. Any person who knowingly violates any of the provisions of
30 this act, or who, not being entitled to vote under this act,
31 fraudulently votes, or attempts to vote thereunder or enables, or
32 attempts to enable another person, not entitled to vote thereunder, to
33 vote thereunder, or who prevents or attempts to prevent by fraud the
34 voting of any person legally entitled to vote under this act, or who
35 knowingly certifies falsely in any paper required to be executed
36 under this act, shall be guilty of a crime of the third degree and
37 upon conviction thereof shall be subject **[, in addition]** to such
38 **other** penalties as are authorized by law **[, to disenfranchisement**
39 **unless and until pardoned or restored by law to the right of**
40 **suffrage].**

41 (cf: P.L.2005, c.154, s.59)

42

43 11. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read
44 as follows:

45 8. a. Each county clerk shall send by air mail, with each ballot
46 for an overseas voter or overseas federal election voter transmitted
47 by such means, appropriate printed instructions for its completion

1 and return, together with an inner and outer envelope similar to that
2 required as to civilian vote by mail ballots with a legend on the
3 inner envelope stating "Ballot for Overseas Voter" or "Ballot for
4 Overseas Federal Election Voter," as appropriate.

5 b. Each county clerk shall send to each overseas voter or
6 overseas federal election voter requesting that a ballot be sent to
7 that voter by electronic means all appropriate printed instructions
8 for its completion and return. The printed instructions sent to each
9 such voter shall include a certificate substantially the same as
10 provided for in section 9 of P.L.1976, c.23 (C.19:59-9).

11 c. The printed instructions sent with each ballot to an overseas
12 voter or overseas federal election voter, including instructions sent
13 by electronic means, shall include a copy of the following notice:

14 PENALTY FOR FRAUDULENT VOTING

15 Any person who knowingly violates any of the provisions of the
16 Overseas Residents Absentee Voting Law, or who, not being
17 entitled to vote thereunder, fraudulently votes or attempts to vote
18 thereunder or enables or attempts to enable another person, not
19 entitled to vote thereunder, to vote fraudulently thereunder or who
20 prevents or attempts to prevent by fraud the voting of any person
21 legally entitled to vote under this act, shall be guilty of an indictable
22 offense, and upon conviction thereof shall be subject **【**, in addition**】**
23 to such **【other】** penalties as are authorized by law **【**, to
24 disenfranchisement unless and until pardoned or restored by law to
25 the right of suffrage**】**.

26 (cf: P.L.2017, c.39, s.11)

27

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

30 28. a. Any person who knowingly violates any of the
31 provisions of P.L.2009, c.79 (C.19:63-1 et al.), or who, not being
32 entitled to vote thereunder, fraudulently votes or attempts to vote
33 thereunder, or enables or attempts to enable another person not
34 entitled to vote thereunder to vote fraudulently thereunder, or who
35 prevents or attempts to prevent by fraud the voting of any person
36 legally entitled to vote under this act, or who shall knowingly
37 certify falsely in any paper required under this act, or who, at any
38 time, tampers with any ballot or document used in an election or
39 interferes with the secrecy of the voting of any person, is guilty of a
40 crime of the third degree, and upon conviction thereof shall be
41 subject **【**, in addition**】** to such **【other】** penalties as are authorized
42 by law **【**, to disenfranchisement, unless and until pardoned or
43 restored by law to the right of suffrage**】**.

44 b. Any person who knowingly aids and abets another in
45 violating any of the provisions of this section is guilty of a crime of
46 the third degree and upon conviction thereof shall be subject **【**, in
47 addition**】** to such **【other】** penalties as are authorized by law **【**, to

1 disenfranchisement, unless and until pardoned or restored by law to
2 the right of suffrage】.

3 (cf: P.L.2015, c.84, s.6)

4

5 13. The following sections are repealed:

6 R.S.19:15-19;

7 R.S.19:31-17; and

8 R.S.19:34-4.

9

10 14. This act shall take effect 90 days following the date of
11 enactment.

12

13

14

STATEMENT

15

16 This bill removes the prohibition on voting by persons who are
17 on parole, probation, or serving a sentence due to a conviction for
18 an indictable offense under any federal or State laws.

19 Under Article II, Section I, paragraph 7, the New Jersey
20 Constitution authorizes the Legislature to deny the right to vote to
21 persons convicted of crimes designated by the Legislature. Under
22 N.J.S.A.2C:51-3, a person who is convicted of a crime is
23 disqualified from “voting in any primary, municipal, special or
24 general election as determined by the provisions of R.S.19:4-1.” In
25 relevant part, R.S.19:4-1 denies the right to vote to any person “who
26 is serving a sentence or is on parole or probation as a result of a
27 conviction of any indictable offense under the laws of this or
28 another state or of the United States.” In New Jersey, indictable
29 offenses are crimes of the fourth through first degree.

30 The bill provides that persons who are serving a sentence of
31 incarceration for an indictable offense under the laws of this state or
32 another state or the United States would be entitled to vote by mail-
33 in ballot, pursuant to the provisions of “The Vote By Mail Law,” in
34 the district in which they resided immediately prior to incarceration.

35 The bill, accordingly, also repeals statutory provisions that
36 permit a person to challenge a voter’s right to vote in an election on
37 grounds that the voter is disenfranchised due to a criminal
38 conviction (N.J.S.A.19:15-19); require the commissioner of
39 registration in each county to compare voter registration records
40 with criminal conviction records to prevent disenfranchised persons
41 from voting and registering to vote (N.J.S.A.19:31-17); and
42 criminalize the act of voting while disenfranchised (N.J.S.A.19:34-
43 4).