SPONSOR: Rep. Yearick & Rep. K. Williams & Sen. Bushweller & Sen. Pettyjohn
Reps. Baumbach, Bentz, Dukes, Heffernan, Kowalko, Miro, Outten, Paradee, D. Short; Sens. Ennis, Henry, McDowell, Simpson, Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 47
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ABSENTEE VOTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5503, Title 15 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and redesignating accordingly:

§ 5503. Request for ballot; ~~affidavits~~ statements for absentee ballots; delivery of absentee ballots.

(a) An elector desiring to vote by absentee ballot in an election for which the elector is a qualified elector may request an absentee ballot from the Department by filing a hand written or electronically prepared ~~affidavit~~ statement with the department no later than 12:00 noon the day before the election.

(b) ~~An affidavit~~ A statement may be filed pursuant to this section by mailing it, delivering it, or causing it to be delivered to the Department.

(d) ~~Affidavits~~ Statements filed pursuant to this section shall:

(1) Indicate the election or elections for which the elector is requesting an absentee ballot;

(2) Include at least the following information:

a. The elector's name;

b. The address of the elector's domicile in the State;

c. The address to which the elector requests that the absentee ballot be mailed;

d. The elector's date of birth;

e. The elector's social security number (optional);

f. The elector's political party affiliation;

g. The elector's expected location on election day;

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h. The reason that the elector cannot appear at the regular polling place for the elector's election district on the day of the election, which shall identify at least 1 of the reasons set forth in § 5502 of this title;

i. A telephone number, if available, to assist in resolving any challenge;

j. An e-mail address, if available, to assist in resolving any challenge; and

k. The elector's signature;

(3) Be subscribed and sworn to by the elector~~, before an officer authorized by law to administer oaths affirming that under penalty of perjury, the information on the affidavit is correct and true except that the affidavit for a person voting in person at the Department shall not be notarized but shall be accepted upon the voter presenting a form of ID acceptable by a notary~~;

(4) Be dated during the calendar year in which the election is to be held, provided that when a presidential primary election is scheduled and the date of the presidential primary election is less than 90 days before January 1 in the year in which a President of the United States is to be elected, the ~~affidavit~~ statement shall not be dated more than 90 days before the day of the presidential primary election, and further provided that, for special elections conducted pursuant to Chapter 71 of this title, the ~~affidavit~~ statement may be dated as of any date after a writ of election has issued; and

(5) Be promulgated by the State Election Commissioner, in consultation with the Department, and personally approved by the Attorney General of the State; provided however, that the Federal Post Card Application or its successor as promulgated by the Federal Voting Assistance Program or its successor shall also be considered an ~~affidavit~~ statement as used in this chapter.

~~(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.~~

(f)(1) If the elector does not indicate the election or elections for which the elector is requesting an absentee ballot, it shall be presumed that the ~~affidavit~~ statement for the next scheduled election in which the elector is eligible to vote; provided however, that an ~~affidavit~~ statement on which the person indicates that the reason the person is requesting to vote by absentee ballot is that the person is temporarily or permanently physically disabled or that the person qualifies under any of the reasons set forth in § 5502(1), (2), (4) or (7) of this title shall be presumed to be for all elections in a calendar year unless otherwise indicated on the ~~affidavit~~ statement.

(2) If the Department is unable to determine the election and/or elections for which a person is requesting an absentee ballot, it shall attempt to contact the person in order to determine the person's intent; provided however, that if time is of the essence and the Department is unable to contact the elector, the Department's county director and deputy county director in the county where such person has requested an absentee ballot shall confer and determine the proper course of action.

(g) ~~Affidavits~~ Statements filed pursuant to this section on which the elector's domicile is different than the address at which the person is registered to vote within the State shall be used to transfer the person's registration.

(h) ~~Affidavits~~ Statements filed pursuant to this section on which an elector indicates that the elector has legally changed the elector's name shall be taken as authorization to transfer the elector's previous registration information, including the elector's voting record to the new name. The Department shall then use the ~~affidavit~~ statement to make the change on the Department's records.

(i) ~~Affidavits~~ Statements filed pursuant to this section on which a person indicates a change in political party affiliation received during a period in which changes in political party affiliation are closed shall be used to change the person's political party affiliation when the period for changing political party affiliation re-opens.

(j) The Department may adopt a printed or electronic ~~affidavit~~ statement form (or both), containing blanks associated with each item required by this section to be listed on ~~an affidavit~~ a statement, which may be completed by any elector wishing to receive an absentee ballot pursuant to this section. An elector may submit a written or electronic request to the Department for the Department-prepared ~~affidavit~~ statement form, which the Department shall forward to the elector upon receipt of a request therefor.

Section 2. Amend § 5504, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5504. Distribution of ballots, envelopes, and instructions; envelope specifications; pre-paid postage.

(a) Upon receipt of ~~an affidavit~~ a statement from an elector pursuant to § 5503 of this title, the Department shall process the same and confirm that the elector qualifies for an absentee ballot pursuant to 5502 of this title.

Section 3. Amend § 5505, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5505. Requirements for ballot envelope; numbering and coding; voter identification label; ~~affidavit~~ statement of eligibility.

Section 4. Amend § 5507, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5507. Voting procedure; execution of ~~affidavit~~ statement; return of ballot.

Section 5. Amend § 5510, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5510. Counting procedure for absentee ballots.

(4) If no challenge has been made, the absentee judges shall:

a. Open the ballot envelopes in such a manner as not to deface or destroy the ~~self-administered affidavit~~ statement thereon or the absentee ballot enclosed;

Section 6. Amend § 5513, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5513. Challenges.

(b) In addition, the vote of an absentee voter may be challenged:

(1) On the ground that the ~~affidavit~~ statement filed by the voter in compliance with § 5503 of this title is false; or

(2) On the ground that the ~~self-administered affidavit~~ statement in the center of the face of the ballot envelope is not signed.

Section 7. Amend § 5514, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5514. Rejected ballots.

(a) No vote shall be accepted or counted if:

(1) The ~~affidavit~~ statement of the absentee voter that appears on the front of the ballot envelope is found to have been altered or is not signed; or

Section 8. Amend § 5517, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5517. File of absentee voters.

(a) The Department shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records shall include, but shall not be limited to, the following entries:

(4) The date the ~~affidavit~~ statement is received by the Department;

Section 9. Amend § 5518, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5518. Members of the armed forces and certain other electors; 1 absentee request to cover all elections; federal post card application (FPCA); electronic transmission of balloting materials.

(b) The receipt of a federal post card application from any person eligible to use the FPCA for an absentee ballot who is not registered to vote in Delaware but is eligible to register to vote in Delaware shall serve as an application to register to vote as well as a request and ~~affidavit~~ statement for an absentee ballot.

Section 2. This Act takes effect on January 1, 2018.