

HB 144 - AS INTRODUCED

2021 SESSION

21-0112

11/06

HOUSE BILL ***144***

AN ACT relative to absentee ballot request forms.

SPONSORS: Rep. Bergeron, Hills. 29

COMMITTEE: Election Law

ANALYSIS

This bill modifies the absentee ballot request forms and absentee ballot envelopes.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to absentee ballot request forms.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Absentee Voting; Application Forms. Amend RSA 657:4 to read as follows:

2 657:4 ***Absentee Ballot Application*** Forms.

3 I. Prior to any state election, ***except the presidential primary election***, the secretary of
4 state shall prepare the appropriate application forms for absentee ballots worded in substantially
5 the following form. The secretary of state shall insert the names of all parties qualified as set forth
6 in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the
7 application forms in such quantity as he or she deems necessary:

8 Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance,
9 and Disability:

10 I hereby declare that (check one):

11 ☐ I am a duly qualified voter who is currently registered to vote in this town/ward.

12 ☐ ***OR I am unable to register to vote in person because*** I am absent from the [town/city]
13 ***city, town, unincorporated place, or ward*** where I am domiciled and will be until after the next
14 election, or I am unable to register in person due to a disability, and request that the forms
15 necessary for absentee voter registration be sent to me with the absentee ballot.

16 I will be entitled to vote by absentee ballot because (check one):

17 ☐ I plan to be absent on the day of the election from the city, town, [or] unincorporated place,
18 ***or ward*** where I am domiciled.

19 ~~[☐ I am requesting a ballot for the presidential primary election and I may be absent on the~~
20 ~~day of the election from the city, town, or unincorporated place where I am domiciled, but the date of~~
21 ~~the election has not been announced. I understand that I may only make such a request 14 days~~
22 ~~after the filing period for candidates has closed, and that if I will not be absent on the date of the~~
23 ~~election I am not eligible to vote by absentee ballot.~~

24 ~~☐ I cannot appear in public on election day because of observance of a religious commitment.]~~

25 ☐ I am unable to vote in person due to a disability[-], ***confinement, observance of a***
26 ***religious commitment, or***

27 ~~[☐ I cannot appear at any time during polling hours at my polling place]~~ because of an
28 employment obligation. For the purposes of this application, the term "employment" shall include
29 the care of children and infirm adults, with or without compensation.

30 ~~[For use only on the Monday immediately prior to the election:]~~ ☐ I cannot appear at my
31 polling place on election day because the National Weather Service has issued a winter storm

HB 144 - AS INTRODUCED
- Page 2 -

warning, blizzard warning, or ice storm warning for election day applicable to my city, town, [or]
unincorporated place [and either (check one):

~~_____ I am elderly or infirm or I have a physical disability, and would otherwise vote in person
but I have concerns for my safety traveling in the storm.~~

~~_____ I anticipate that school, child care, or adult care will be canceled, and would otherwise
vote in person but will need to care for children or infirm adults], **or ward.**~~

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by
absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the following election (check one):

[~~_____ Presidential Primary to be held on _____~~

~~(MM/DD/YYYY)~~

~~(The date may appear as blank when the date is not known.)]~~

_____ State Primary **Election** to be held on _____

(MM/DD/YYYY)

***For primary elections, I am a member of or I am now declaring my affiliation with the
(check one):***

_____ ***Republican Party***

_____ ***Democratic Party***

_____ ***(name of any party determined by the secretary of state to have achieved official
status under RSA 652:11)***

and am requesting a ballot for that party's primary.

_____ ***State General Election to be held on _____***

(MM/DD/YYYY)

~~[For primary elections, I am a member of or I am now declaring my affiliation with the (check
one):~~

~~_____ Republican Party~~

~~_____ Democratic Party~~

~~_____ (name of any party determined by the secretary of state to have achieved official status
under RSA 652:11)~~

~~_____ and am requesting a ballot for that party's primary.]~~

Please print:

Applicant's Name:

(Last) (First) (Middle) (Sr., Jr., II., III)

HB 144 - AS INTRODUCED
- Page 3 -

Applicant's Voting Domicile (home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Phone Number : _____

Applicant's Email Address : _____

Applicant's Signature: _____

Date Signed: _____

(MM/DD/YYYY)

Applicant's Phone Number (optional): _____

Applicant's Email Address (optional): _____

I attest that I assisted the applicant in executing this form because he or she has a disability.

Signature _____

Print Name _____

~~[If your absentee ballot application or affidavit envelope has the printed name and signature of a person who assisted you with voting, your signature will not be compared to your signature on the absentee ballot affidavit to verify your identity. Otherwise, if your signatures do not appear to be made by the same person, your absentee ballot may not be counted.]~~

~~The applicant must sign this form to receive an absentee ballot. Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form. The moderator will not compare the voter's signature on the application with the signature on the absentee ballot affidavit when a person assisting the voter has signed the statement on the absentee ballot application or affidavit envelope that assistance was provided.]~~

II. The federal official post card form shall constitute the form made available by the secretary of state pursuant to RSA 654:20 for absentee ballot applications by UOCAVA voters.

657:4-a Presidential Primary Absentee Ballot Application Form.

I. Prior to the presidential primary election, the secretary of state shall prepare the appropriate application forms for absentee ballots worded in substantially the following form. The secretary of state shall insert the names of all parties qualified as set forth in RSA 652:11 in the list of parties on the application form. The secretary of state shall prepare the application forms in such quantity as he or she deems necessary:

Absence (Excluding Absence Due to Residence Outside the United States), Religious Observance, and Disability:

I hereby declare that (check one):

☐ *I am a duly qualified voter who is currently registered to vote in this city, town, unincorporated place, or ward.*

☐ *OR I am unable to register to vote in person because I am absent from the city, town, unincorporated place, or ward where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.*

I will be entitled to vote by absentee ballot because (check one):

☐ *I plan to be absent on the day of the election from the city, town, unincorporated place, or ward where I am domiciled.*

☐ *I am unable to vote in person due to a disability, confinement, observance of a religious commitment, or because of an employment obligation. For the purposes of this application, the term "employment" shall include the care of children and infirm adults, with or without compensation.*

☐ *I cannot appear at my polling place on election day because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, unincorporated place, or ward.*

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24.

I am requesting an official absentee ballot for the presidential primary to be held on (MM/DD/YYYY). (The date may appear as blank when the date is not known.)

I am a member of or I am now declaring my affiliation with the (check one):

☐ *Republican Party*

☐ *Democratic Party*

☐ *(name of any party determined by the secretary of state to have achieved official status under RSA 652:11)*

and am requesting a ballot for that party's primary.

Please print:

Applicant's Name:

(Last) (First) (Middle) (Sr., Jr., II., III)

Applicant's Voting Domicile (home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Mail the ballot to me at this address (if different than the home address):

(Street Number) (Street Name) (Apt/Unit) (City/Town) (Ward) (Zip Code)

Applicant's Signature: _____

Date Signed: _____

(MM/DD/YYYY)

Applicant's Phone Number (optional) : _____

Applicant's Email Address (optional): _____

I attest that I assisted the applicant in executing this form because he or she has a disability.

Signature _____

Print Name _____

II. The federal official post card form shall constitute the form made available by the secretary of state pursuant to RSA 654:20 for absentee ballot applications by UOCAVA voters.

657:4-b Identification and Penalties.

~~[H.(a)]~~ **I.** Any person, other than the city or town clerk or the secretary of state, that publishes, mails, or distributes in any manner any written communication that contains a form or post card which a reasonable person would consider as intended to be used by the recipient of the communication to submit a request for an absentee ballot shall identify who is publishing, mailing, or distributing the communication, and attach a copy of the form prepared by the secretary of state pursuant to paragraph I of this section to the communication or include in the communication a complete facsimile of the form prepared by the secretary of state pursuant to paragraph I of this section.

~~[(b)]~~ **II.** Any person that publishes, mails, or distributes forms as described in subparagraph (a) as part of any communication that is made for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures, as defined in RSA 664:2, shall be identified in the same manner as political advertising under RSA 664:14.

~~[(c)]~~ **III.** Any person that violates this paragraph shall be subject to a civil penalty not to exceed \$1,000, to be imposed in the manner set forth in RSA 659:34, III-V.

~~[III. The federal official post card form shall constitute the form made available by the secretary of state pursuant to RSA 654:20 for absentee ballot applications by UOCAVA voters.]~~

HB 144 - AS INTRODUCED
- Page 6 -

2 Absentee Ballots and Related Materials; Absence, Religious Observance, and Disability.
Amend RSA 657:7 to read as follows:

657:7 Absence, Religious Observance, and Disability. Prior to any state election, the secretary of state shall prepare the following forms in such quantity as he deems necessary:

I. Absence, religious observance, and disability absentee ballots as provided in RSA 656:33.

II. Affidavit envelopes of sufficient size to contain the ballots on which shall be printed the following:

~~[(a)]~~ Absence from City or Town ***or Inability to Vote in Person***. A person voting by absentee ballot because of absence from the city or town in which he or she is entitled to vote, ***or who is unable to vote in person***, shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____; that I will be unable to appear at any time during polling hours at my polling place because ~~[I will be working on election day, or I am voting on the Monday immediately prior to the election, the National Weather Service has issued]~~ ***I plan to be absent on the day of the election from the voting district in which I am domiciled, or I am unable to vote due to a disability, confinement, observance of a religious commitment, an employment obligation, because of*** a winter storm ~~[warning]~~, blizzard ~~[warning]~~, or ice storm warning, ~~[and I am elderly or infirm, have a physical disability,]~~ ***or because I*** have to care for children or infirm adults, ~~[or I will be otherwise absent on election day from said city or town and will be unable to vote in person;]~~ that I have carefully read (or had read to me because I am ***disabled or*** blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am ***disabled or*** blind). ~~[For the purposes of this certification, the term "working" shall include the care of children and infirm adults, with or without compensation.]~~

(Signature) _____

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

~~[(b) Absence Because of Religious Observance or Physical Disability. A person voting by absentee ballot because of religious observance or physical disability shall fill out and sign the following certificate:~~

~~I do hereby certify under the penalties for voting fraud set forth below that I am a voter in the city or town of _____, New Hampshire, in ward _____; that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am~~

HB 144 - AS INTRODUCED
- Page 7 -

1 ~~blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally~~
2 ~~marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and~~
3 ~~sealing it in this envelope because I am blind).~~

4 (Signature) _____]

5 The signature on this affidavit ~~[must appear]~~ **is** to be executed by the same person who signed
6 the absentee ballot application. ~~[A person assisting a disabled or blind voter shall make and sign a~~
7 ~~statement on this envelope in the space provided acknowledging the assistance. The moderator will~~
8 ~~not compare the voter's signature on this affidavit with the signature on the absentee ballot~~
9 ~~application when a person assisting the voter has signed the statement on the affidavit that~~
10 ~~assistance was provided.]~~ **However, the moderator shall not reject an absentee ballot due to**
11 **variations in the voter's signatures. If the affidavit or application shows that the voter**
12 **received assistance, the absentee voter's ballot shall be processed as verified.**

13 In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false
14 information when registering to vote or voting is a class A misdemeanor with a maximum sentence
15 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to
16 vote or voting is subject to a civil penalty not to exceed \$5,000.

17 III. Return envelopes of size sufficient to contain the preceding envelope addressed to the
18 town and city clerks of the state in which absentee voters shall return their ballots. On the
19 envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4
20 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed
21 thereon.

22 IV. Such explanatory matter and instructions for voters as the secretary of state with the
23 approval of the attorney general shall deem appropriate to carry into effect the purposes hereof.

24 V. Mailing envelopes large enough to contain all the above materials in which the town and
25 city clerks shall mail or deliver them to absentee voters.

26 3 Election Procedure; Processing Absentee Ballots; Announcement by Moderator. Amend RSA
27 659:50, I(c) to read as follows:

28 (c) ~~[If the affidavit or application shows that the voter received assistance, the absentee~~
29 ~~voter shall be processed as verified. Otherwise, the signatures on the affidavit shall be examined to~~
30 ~~determine if it appears to be executed by the same person who signed the application.]~~ **The**
31 **signature on the affidavit shall be by the same person who signed the application.**
32 **However, the moderator shall not reject an absentee ballot due to variations in the voter's**
33 **signatures. If the affidavit or application shows that the voter received assistance, the**
34 **absentee voter's ballot shall be processed as verified.**

35 4 Effective Date. This act shall take effect 60 days after its passage.