

HB 144 - AS AMENDED BY THE SENATE

5Jan2022... 2249h
05/05/2022 1809s

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

AMENDED ANALYSIS

This bill modifies the absentee ballot request forms and absentee ballot envelopes, permits absentee voting due to illness or other medical condition that prevents the voter from appearing at the polls, and permits absentee ballots to be emailed to UOCAVA voters for local elections.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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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 Voter Registration; Applicability. Amend RSA 654:16 and 654:17 to read as follows:
2 654:16 Applicability. Any person who has his **or her** domicile in any town or city in this state
3 and is qualified to vote therein at the next subsequent election to be held in said town or city except
4 for the fact that his **or her** name does not appear on the checklist to be used at the election, and who
5 is temporarily absent therefrom or who by reason of physical disability, **illness, or other medical**
6 **condition** is unable to attend a meeting of the supervisors of the checklist, may cause his **or her**
7 name to be added to such checklist by applying to the city or town clerk or the secretary of state for a
8 voter registration form provided for in RSA 654:7 and an appropriate absentee registration affidavit
9 provided for in RSA 654:17.

10 654:17 Absentee Registration Affidavit.

11 I. The absentee registration affidavit shall be prepared by the secretary of state and shall be
12 in substantially the following form:

13 Affidavit (Absence from town)

14

15 I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below,
16 the following:

17 1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of
18 18 years or over on election day and am entitled to vote in the election to be held in said town on
19 _____, _____ (date), except for the fact that my name does not appear on the checklist
20 to be used in said town at such election;

21 2) That I do not intend to be present within said town at such time prior to said election as shall
22 enable me personally to appear before the supervisors of the checklist of said town in their regular
23 sessions for the correction of the checklist for said election;

24 3) That I am temporarily residing in _____ (city and state or city, province, and country);

25 4) That I hereby enclose one of the following as proof of identity and domicile:

26 (a) A copy of a current and valid New Hampshire driver's license or an armed services identification
27 or other photo identification issued by the United States government that shows my name and
28 address; or

29 (b) A copy of a current and valid photo identification and a copy of a current utility bill, bank
30 statement, government check, paycheck, other government document that shows my name and

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address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

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.

Affidavit (Physical Disability, *Illness, or Other Medical Condition*)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on _____, ____ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability, *illness, or other medical condition* personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

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4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

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.

II. There shall be printed below each of the foregoing affidavits the following affirmation:

Affirmation

I, _____, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the _____ day of _____, ____ (date), the above named, _____, having satisfied me as to his or her identity, signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Witness

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.

2 Absentee Voting Based on Official Absence, Religious Observance, and Disability, Illness, or Other Medical Condition. Amend RSA 656:33 to read as follows:

656:33 Official Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition*** Absentee Ballots. Prior to any state election, the secretary of state shall prepare, in such quantity as the secretary of state may deem necessary, absence, religious observance, and disability, ***illness, or other medical condition*** absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the words "absentee ballot" printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.

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3 Absentee Voting. Amend the section heading of RSA 657:1 and RSA 657:1, I to read as follows:

657:1 Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition***
Absentee Voting.

I. Any person who will be absent on the day of any state election from the city, town, or unincorporated place in which he or she is registered to vote or who cannot appear in public on any election day because of his or her observance of a religious commitment or who is unable to vote there in person by reason of physical disability, ***illness, or other medical condition*** may vote at such elections as provided in this chapter. A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this chapter. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.

4 Absentee Ballot Application Forms. Amend the section heading and RSA 657:4, I to read as follows:

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

I. Prior to any state 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, ***Illness, or Other Medical Condition***:

I hereby declare that (check one):

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

☐ I am ***unable to register to vote in person because I am*** absent from the [town/city] ***city, town, or unincorporated place*** 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, or unincorporated place where I am domiciled.

☐ I am confined in a penal institution for a misdemeanor or while awaiting trial.

~~☐ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after~~

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the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.]

____ I cannot appear in public on election day because of observance of a religious commitment.

____ I am unable to vote in person due to a disability, ***illness, or other medical condition.***

____ I cannot appear at any time during polling hours at my polling place 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.

For use only on the Monday immediately prior to the election: 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, 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.

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

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):

____ ***General Election to be held on***

(MM/DD/YYYY)

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

(MM/DD/YYYY)

____ Presidential Primary ***Election*** to be held on

(MM/DD/YYYY)

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

~~[____ State Primary to be held on~~

~~***(MM/DD/YYYY)***~~

~~[____ General Election]~~

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

____ Republican Party

____ Democratic Party

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

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

4 Please print:

5 Applicant's Name:

6 _____

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

8 Applicant's Voting Domicile (home address):

9 _____

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

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

12 _____

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

14 [Applicant's Phone Number : _____]

15 Applicant's Email Address : _____]

16 Applicant's Signature: _____

17 Date Signed: _____

18 (MM/DD/YYYY)

19 ***Please provide one or both of the following in case we need to contact you:***

20 ***Applicant's Phone Number:*** _____

21 ***Applicant's Email Address:*** _____

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

23 Signature _____

24 Print Name _____

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

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

35 5 Absentee Ballots. Amend RSA 657:7 to read as follows:

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657:7 Absence, Religious Observance, and Disability, ***Illness, or Other Medical Condition That Prevents the Voter From Appearing at the Polls.*** Prior to any state election, the secretary of state shall prepare the following forms in such quantity as he ***or she*** deems necessary:

I. Absence, religious observance, and disability, ***illness, or other medical condition*** 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:

YOUR COMPLETED ABSENTEE BALLOT MUST BE SEALED IN THIS ENVELOPE

I do hereby certify under the penalties for voting fraud set forth below that:

I am a voter in the city, ~~[or]~~ town, ***or unincorporated place*** of _____, New Hampshire, ***in ward*** _____ ~~[.]~~ ***and that*** one of the following applies to me:

1) I will be absent on election day. Absence includes:

a) I will be out-of-town on election day.

b) I will be unable to vote in person because I will be working.

c) I will be unable to vote in person because I will be caring for children or infirm adults, with or without compensation.

d) I am voting absentee on the Monday immediately before the election, the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning that applies to my town/ward, ***or unincorporated place***, and I have concerns for traveling in the storm.

2) I am unable to vote in person due to disability, ***illness, or other medical condition.***

3) I am unable to vote in person due to observance of a religious commitment, which prevents me from voting in person.

4) I am confined to a penal institution for a misdemeanor or while awaiting trial.

I have carefully read or had read to me the absentee voting instructions. I personally marked the absentee ballot enclosed in this envelope or, due to a disability, I had assistance in marking the absentee ballot.

Voter Signature _____

Voter Address _____

A person assisting a voter with a disability shall sign this statement on this envelope acknowledging the assistance.

I attest that I assisted (print voter name) _____ because the voter is a person with a disability. I marked the ballot and/or this form as instructed by the voter.

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.

III. Return envelopes of size sufficient to contain the preceding envelope addressed to the town and city clerks of the state in which absentee voters shall return their ballots, ***if such ballots are returned by mail***. On the envelopes shall be printed "Enclosed is the ballot of an absentee voter" and, at the top thereof, 4 blank spaces with the words "Name, Voting Address, Ward, Town or City" appropriately printed thereon. ***Absentee ballots returned to town or city clerks in person shall not be required to be placed in such outer envelopes.***

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

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

6 Absentee Voting; Refusal to Certify; Procedure. Amend RSA 657:16 to read as follows:

657:16 Refusal to Certify; Procedure. If he or she refuses to certify the application, the town or city clerk shall notify the applicant in writing within 7 days to that effect. The town or city clerk shall provide the applicant with an absentee ballot and a notice that the ballot will not be counted unless the applicant submits the documents necessary to complete an absentee registration. The applicant shall be advised in writing what documents, if any, have been received in proper form and which the applicant must submit. ***If the applicant submits such documents via mail, he or she shall do so by enclosing them*** in the outer envelope that contains the absentee ballot envelope. ***An applicant hand delivering such documents need not enclose them in the outer envelope.*** The town or city clerk shall mark the absentee ballot application, the absentee ballot affidavit, and the outer envelope, ***if applicable***, with the words "Not Registered." Upon receipt of ~~an~~ ***a mailed*** outer envelope marked "Not Registered," the clerk shall open the outer envelope. If the applicant returns the required documents with the absentee ballot by the date set for correcting the checklist under RSA 654:27 and RSA 654:28, the town or city clerk shall forward the registration forms to the supervisors of the checklist and, if the applicant is found to be qualified, the applicant shall be registered and his or her absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter. All documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a. If the ballot is returned without the required documents in proper form, the ballot shall be marked in the manner set forth by law for successfully challenged absentee ballots and preserved in accordance with RSA 33-A:3-a. The clerk shall preserve the application of any applicant who is not registered as a voter until the time set by law for the destruction of the ballots after the election at which time the application shall be destroyed. Any justice of the superior court has jurisdiction in equity upon such notice as he or she may order to require that the name of the person making application for an absentee ballot be placed upon the checklist or registered as a member of any party and be sent an absentee ballot.

7 Absentee Voting; Procedure by Voter. Amend RSA 657:17, I to read as follows:

I. After marking the ballot, the voter or the person assisting a blind voter or voter with a disability who is unable to mark his or her ballot shall enclose and seal the same in an inner envelope. The voter shall execute the affidavit on the envelope. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit shall sign a statement on the affidavit envelope acknowledging the assistance. *If the voter or the person assisting the blind voter or voter with a disability who needs assistance is mailing the absentee ballot to the town or city clerk, the voter or the person assisting the blind voter or voter with a disability* shall enclose and seal the inner envelope with the affidavit in an outer envelope. The voter or the person assisting a blind voter or voter with a disability shall then endorse on the outer envelope the voter's name, address, and voting place. The absentee ballot shall be delivered to the city or town clerk from whom it was received in one of the following ways:

(a) The voter or the voter's delivery agent may personally deliver the envelope, *in which case the voter or the voter's delivery agent need not enclose the affidavit envelope in the outer envelope*; or

(b) The voter or the person assisting the blind voter or voter with a disability may mail the *ballot and affidavit envelope within the outer* envelope to the city or town clerk, with postage affixed.

8 Subdivision Heading Amended. Amend the subdivision heading preceding RSA 657:12 to read as follows:

Procedure for Absence, Religious Observance, and Disability,
Illness, or Other Medical Condition, and Overseas Voting

9 Town Elections; Absentee Voting. Amend RSA 669:26 to read as follows:
669:26 Absentee Voting.

I. Every town which has adopted an official ballot system for town elections as provided in RSA 669:12 or 669:13 shall provide for absentee voting. Any eligible voter who is absent from such a town on the day of a town election, or who cannot appear in public on election day because of his or her observance of a religious commitment, or who, by reason of physical disability, *illness, or other medical condition*, is unable to vote in person may vote at a town election in accordance with the provisions of this section and RSA 669:27-669:29. A person who is unable to appear at any time during polling hours at his or her polling place because of an employment obligation shall be considered absent for purposes of this section and RSA 669:27-669:29. For the purposes of this section, the term "employment" shall include the care of children and infirm adults, with or without compensation.

I-a. Notwithstanding any statutory reference to the 45 day deadline to deliver absentee ballots to UOCAVA voters, as defined in RSA 652:16-b, the town clerk shall deliver absentee ballots to UOCAVA voters in a manner consistent with RSA 657:19.

1 II. When the National Weather Service has issued a winter storm warning, blizzard
2 warning, or ice storm warning for election day applicable to the town:

3 (a) A person who is elderly or infirm or who has a physical disability, *illness, or other*
4 *medical condition*, who otherwise would have voted in person but has concerns for his or her
5 safety traveling in the storm, shall be considered absent for purposes of this section and RSA 669:27-
6 669:29 and may vote absentee on the Monday immediately prior to the election.

7 (b) A person who cares for children or infirm adults who reasonably anticipates that
8 school, child care, or adult care will be canceled, who otherwise would have voted in person but will
9 be deterred from voting by the need to care for children or infirm adults, shall be considered absent
10 for purposes of this section and RSA 669:27-669:29 and may vote absentee on the Monday
11 immediately prior to the election.

12 (c) As required by RSA 652:20, the clerk's office shall be open to receive applications for
13 absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive
14 returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to
15 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the
16 individual has taken the oath of office and has been trained in the requirements for using an
17 absentee ballot and the procedures for issuing and receiving absentee ballots.

18 10 Effective Date. This act shall take effect 60 days after its passage.