ASSEMBLY, No. 3456

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:
Assemblywoman SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)
Assemblywoman CLEOPATRA G. TUCKER
District 28 (Essex)
Assemblyman JAMEL C. HOLLEY
District 20 (Union)

Co-Sponsored by:
Assemblywomen Reynolds-Jackson, McKnight, Assemblymen Mukherji, Conaway, Assemblywomen Carter, Quijano, Timberlake, Assemblyman Wimberly and Assemblywoman Chaparro

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: 8/26/2019)
AN ACT concerning the right to vote by persons convicted of an
indictable offense, supplementing chapter 4 of Title 19 of the
Revised Statutes, and amending and repealing various parts of
the statutory law.

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

1. (New section) The Legislature finds and declares:
   a. Voting is both a fundamental right and a civic duty.
   b. In New Jersey, over 94,000 people were denied the right to
      vote in 2016 because they were serving a sentence or on probation
      or parole for an indictable offense. This is more people than reside
      in New Jersey’s capital city of Trenton.
   c. New Jersey first denied the right to vote, and permitted the
      Legislature to deny by law the right to vote, on account of a
      criminal conviction as part of its Constitution of 1844.
   d. The law in its current form was enacted decades prior to the
      dramatic increases in incarceration experienced by New Jersey and
      the nation over the past 40 years.
   e. Nearly half of those denied the right to vote because of a
      criminal conviction are Black, due to racial disparities in the
      criminal justice system.
   f. There is no evidence that denying the right to vote to people
      with criminal convictions serves any legitimate public safety
      purpose.
   g. Denying the right to vote to people with criminal convictions
      unnecessarily burdens law enforcement, election officials, and New
      Jersey residents. Administering New Jersey’s current law requires
      involvement from multiple public safety agencies, as well as State
      and local election officials, and average citizens need to understand
      principles of the criminal law in order to know who is or is not
      eligible to vote.
   h. This act, P.L.  , c. (pending before the Legislature as this
      bill), would conserve law enforcement resources and create a
      bright-line rule so that average citizens are not wrongly denied their
      right to vote due to confusion or mistake.

2. N.J.S.2A:167-5 is amended to read as follows:
   2A:167-5. Any person who has been convicted of a crime and
   by reason thereof has been deprived of the right of suffrage or of
   any other of his civil rights or privileges, or upon whom there has
   been imposed a fine or who has suffered a forfeiture, except
   disqualification to hold and enjoy any public office of honor, profit
   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.
application for the restoration [of the right of suffrage or] of such
[other] rights or privileges or for the suspension or remission of
such fine or forfeiture, which application the governor may grant by
order signed by him.
(cf: P.L.1951, c.344, s.1)

3. N.J.S.2C:51-3 is amended to read as follows:
2C:51-3. A person who is convicted of a crime shall be
disqualified

a. [From voting in any primary, municipal, special or general
election as determined by the provisions of R.S. 19:4-1; and]
(Deleted by amendment, P.L. , c. ) (pending before the
Legislature as this bill)
b. From serving as a juror as determined by the provisions of
(cf: P.L.1979, c.178, s.106)

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

No person shall have the right of suffrage--
(1) Who has been adjudicated by a court of competent
jurisdiction to lack the capacity to understand the act of voting[; or]

(2) (Deleted by amendment.)
(3) (Deleted by amendment.)
(4) (Deleted by amendment.)
(5) (Deleted by amendment.)
(6) [Who has been convicted of a violation of any of the
provisions of this Title, for which criminal penalties were imposed,
if such person was deprived of such right as part of the punishment
therefor according to law unless pardoned or restored by law to the
right of suffrage; or] (Deleted by amendment, P.L. , c. ) (pending
before the Legislature as this bill)
(7) [Who shall be convicted of the violation of any of the
provisions of this Title, for which criminal penalties are imposed, if
such person shall be deprived of such right as part of the
punishment therefor according to law, unless pardoned or restored
by law to the right of suffrage; or] (Deleted by amendment, P.L.,
c. ) (pending before the Legislature as this bill)

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

A person who will have on the day of the next general election
the qualifications to entitle him to vote shall have the right to be
registered for and vote at such general election and register for and
vote at any election, intervening between such date of registration
and such general election, if he shall be a citizen of the United
States and shall meet the age and residence requirements prescribed
by the Constitution of this State and the laws of the United States,
when such intervening election is held, as though such
qualifications were met before registration.
(cf: P.L.2010, c.50, s.17)

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

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

a. The challenged voter is at least 18 years old and a citizen of
the United States and of this State, has resided in the county at least
30 days prior to the date of the election, [and has not been
convicted of a crime which would disenfranchise a person under the
laws of this State.] and either:

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

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

The judge of the Superior Court having the application shall
cause a full record of the proceeding to be taken stenographically,
transcribed and filed in the office of the county clerk of the county,
which record shall be open and public record. All costs and
expenses of such proceedings shall be paid by the county.
(cf: P.L.2005, c.139, s.5)

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

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

a. Malconduct, fraud or corruption on the part of the members
of any district board, or of any members of the board of county
canvassers, sufficient to challenge the result;
b. When the incumbent was not eligible to the office at the time
of the election;
c. When the incumbent had been duly convicted before such
election of any crime which would render him incompetent to
exercise the right of suffrage, and the incumbent had not been
pardoned at the time of the election;] (Deleted by amendment,
P.L., c.) (pending before the Legislature as this bill)
d. When the incumbent had given or offered to any elector or
any member of any district board, clerk or canvasser, any bribe or
reward, in money, property or thing of value for the purpose of
procuring his election;
e. When illegal votes have been received, or legal votes rejected at the polls sufficient to change the result;

f. For any error by any board of canvassers in counting the votes or declaring the result of the election, if such error would change the result;

g. For any other cause which shows that another was the person legally elected;

h. The paying, promise to pay or expenditure of any money or other thing of value or incurring of any liability in excess of the amount permitted by this title for any purpose or in any manner not authorized by this title;

i. When a petition for nomination is not filed in good faith or the affidavit annexed thereto is false or defective.

The term “incumbent” means the person whom the canvassers declare elected or the person who is declared elected as a result of a recount; but in the case of a tie vote as a result of the canvass or recount, either party may contest the election, in which case the term “incumbent” means the person having an equal number of votes with the contestant.

(cf: P.L.1956, c.128, s.1)

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

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

VOTER REGISTRATION APPLICATION

Print clearly in ink. Use ballpoint pen or marker.

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

[] New registration

[] Address change

[] Name change

(2) Name: ..................................................

Last              First                 Middle

(3) Are you a citizen of the United States of America? [] Yes [] No

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

If you checked ‘No’ in response to either of these questions, do not complete this form.

(5) Street Address where you live:

..................................................

Street Address                Apt. No.

(6) City or Town               County Zip Code

(7) Address Where You Receive Your Mail (if different from above):
Date of Birth: ............................................................

Month         Day           Year

Telephone Number (optional).................................

E-Mail Address (optional).................................

Name and address of Your Last Voter Registration

............................................................

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............................................................

Telephone Number (optional)......................

E-Mail Address (optional).......................

Name and address of Your Last Voter Registration

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Telephone Number (optional)......................

E-Mail Address (optional).......................

Name and address of Your Last Voter Registration

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If you are registering by mail to vote and will be voting for
the first time in your current county of residence, please provide
one of the following:

(a) your New Jersey driver's license number:................

(b) the last four digits of your Social Security
Number:................

OR submit with this form a copy of any one of the following
documents: a current and valid photo identification card; a current
utility bill, bank statement, government check, pay check or any
other government or other identifying document that shows your
name and current address. If you do not provide either your New
Jersey driver's license number or the last four digits of your Social
Security Number, or enclose a copy of one of the documents listed
above, you will be asked for identification when voting for the first
time, unless you are exempt from doing so under federal or State
law.

Do you wish to declare a political party affiliation?

(Optional):

[ ] YES. Name of Party:

[ ] NO. I do not wish to declare a political party affiliation
at this time.

Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next
election.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT
REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO
$15,000, IMPRISONMENT UP TO FIVE YEARS, OR BOTH
PURSUANT TO R.S.19:34-1.

Signature or mark of the registrant            Date

If applicant is unable to complete this form, print the name
and address of individual who completed this form.
In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to individuals with disabilities and the elderly or whether he or she is legally blind; a place at which the applicant may indicate a desire to receive information concerning absentee voting; and if the application indicates a political party affiliation, the voter is permitted to vote in the primary election of a political party other than the political party in which the voter was affiliated previously only if the voter registration form with the change of political party affiliation is filed prior to the 50th day next preceding the primary election. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

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

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

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

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

f. The Secretary of State shall also furnish such registration forms and such instructions to the Director of the Division of Workers' Compensation, the Director of the Division of
Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

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

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

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

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

k. In the event that the name of any political party entered on the voter registration form by a voter who wishes to declare a political party affiliation is not legible, the commissioner of registration shall mail the voter a political party declaration form and a letter explaining that the voter's choice was not understood.
and that the voter should complete and return the declaration form
in order to be affiliated with a party.
(cf: P.L.2009, c.287, s.1)

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

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

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

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

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

Acceptance of bribe by voter.  d. Any voter who shall directly or
indirectly, by himself or by any other person on his behalf, receive,
agree or contract for any money, gift, loan or valuable
consideration, office, place or employment for himself or for any
other person for voting or agreeing to vote, or for refraining or
agreeing to refrain from voting at any election, or for registering or
agreeing to register, or for refraining or for agreeing to refrain from
registering for any election, shall be guilty of a crime of the third degree.

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

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

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

Contributions for use in bribing. h. A person who shall give, advance or pay, or cause to be given, advanced or paid, any money
or other valuable thing to any person, or to the use of any person,
with the intent that such money or other valuable thing, or any part
thereof, shall be expended, or used for bribery of voters, or for any
other unlawful purpose at any election, or who shall knowingly pay,
or cause to be paid money to any person wholly or in part expended
in bribery of a voter at any election, shall be guilty of a crime of the
third degree.

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

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

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

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

3. To provide for the payment for the insertion in any
newspaper or magazine of any article tending to influence any
person to give or refrain from giving his vote to any candidate or
candidates at any election; or to provide for payment for the
distribution of any newspaper or magazine wherein any such article
is printed; or to provide for payment of the printing or of the
distribution of any circular, handbill, card, pamphlet or statement
tending to influence any person to give or refrain from giving his
vote to any candidate at any election; but this prohibition shall not
be construed to prohibit the printing and distribution of paid
advertisements, which advertisements shall be indicated by the
words "This advertisement has been paid for by " (inserting the
true name and address of the person or persons paying for the
same); nor shall it be construed to prohibit the printing and
distribution of circulars, handbills, cards, pamphlets or statements
which shall have printed on the face thereof the true name and
address of the person or persons paying for the printing and
distribution thereof, which fact shall be indicated by the words "The
cost of the printing and distribution of this circular (or as the case
may be) has been paid by " (inserting the true name and address of
the person or persons paying for the same).

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

Penalty. l. Any person who shall violate any of the provisions of
paragraphs "j" and "k" of this section shall be guilty of a crime of
the third degree, and shall for the first offense be disfranchised for
a period of five years from the date of conviction, and for any
subsequent offense shall be perpetually disfranchised, and in
addition thereto and for any subsequent offense the court in which
such conviction is obtained may in case of a subsequent
conviction impose upon the person so convicted the punishment
now prescribed by law for a crime of the second degree.
(cf: P.L.2005, c.154, s.43)

9. R.S.19:34-46 is amended to read as follows:
19:34-46. In addition to any penalties provided for violation of
any of the provisions of this title, the court imposing such penalty
may add thereto that such offender be thenceforth disfranchised as
a voter and disqualified to hold any office of trust or profit within
this state for such length of time as such court deems proper.
(cf: R.S.19:34-46)

10. Section 33 of P.L.1964, c.134 (C.19:58-33) is amended to
read as follows:
33. Any person who knowingly violates any of the provisions of
this act, or who, not being entitled to vote under this act,
fraudulently votes, or attempts to vote thereunder or enables, or
attempts to enable another person, not entitled to vote thereunder, to
vote thereunder, or who prevents or attempts to prevent by fraud the
voting of any person legally entitled to vote under this act, or who
knowingly certifies falsely in any paper required to be executed
under this act, shall be guilty of a crime of the third degree and
upon conviction thereof shall be subject to such other penalties as are authorized by law, to disenfranchisement
unless and until pardoned or restored by law to the right of
suffrage.
(cf: P.L.2005, c.154, s.59)

11. Section 8 of P.L.1976, c.23 (C.19:59-8) is amended to read
as follows:
8. a. Each county clerk shall send by air mail, with each ballot
for an overseas voter or overseas federal election voter transmitted
by such means, appropriate printed instructions for its completion
and return, together with an inner and outer envelope similar to that required as to civilian vote by mail ballots with a legend on the inner envelope stating "Ballot for Overseas Voter" or "Ballot for Overseas Federal Election Voter," as appropriate.

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

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

**PENALTY FOR FRAUDULENT VOTING**

Any person who knowingly violates any of the provisions of the Overseas Residents Absentee Voting Law, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, shall be guilty of an indictable offense, and upon conviction thereof shall be subject to such penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

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

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

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

b. Any person who knowingly aids and abets another in violating any of the provisions of this section is guilty of a crime of the third degree and upon conviction thereof shall be subject to such penalties as are authorized by law, to
disenfranchisement, unless and until pardoned or restored by law to
the right of suffrage].

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

13. The following sections are repealed:
   R.S.19:15-19;
   R.S.19:31-17; and

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

STATEMENT

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

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

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

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