REPORT ON LEGISLATION BY THE 
ELECTION LAW COMMITTEE AND 
THE GOVERNMENT ETHICS AND STATE AFFAIRS COMMITTEE

A.778  M. of A. Vanel
S.1049  Sen. Comrie

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing an amendment to section 2 of article 2 of the constitution, in relation to authorizing ballot by mail by removing cause for absentee ballot voting

THIS BILL IS APPROVED

The Election Law Committee and the Government Ethics and State Affairs Committee of the New York City Bar Association\(^1\) supports a constitutional amendment which would permit “no-excuse” absentee voting in New York.\(^2\) The enactment of a no-excuse absentee voting system in New York would remove from the Election Law any requirement that voters provide an excuse before being issued an absentee ballot. Currently, 28 states and the District of Columbia permit any qualified voter to vote absentee without offering an excuse.\(^3\)

In New York, voters requesting an absentee ballot are required to provide an excuse for their inability to vote at their designated polling place. Acceptable excuses include unavoidable absence from the county of residence due to duties, occupation, business, studies, or vacation and inability to vote due to illness or physical disability. Any voter with an excuse to vote absentee other than those listed in the current Election Law are not entitled to an absentee ballot.

As a matter of policy, the City Bar believes that voting should be a convenient and common practice, and thus any reform to expand the franchise and make voting more convenient

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\(^1\) The Election Law Committee is comprised of City Bar members interested in, and often with decades of expertise concerning, New York State Election Law. The Committee has been active in commenting on proposed revisions of state election law and local election rules. It also regularly provides election law training for candidates and the public. The Government Ethics and State Affairs Committee seeks to shine a light broadly on issues of ethical conduct in public service at the city, state, and federal levels.


In evaluating whether New York’s electoral process would benefit from implementing no excuse absentee voting, the City Bar has considered several policy factors:

- **Necessity to modernize, ease voting experience and increase voter participation:** New York’s voter turnout has historically ranked among the lowest in the nation. In 2016, with two New Yorkers at the top of the presidential ballot, our state still ranked 41st out of 50 in terms of turnout. Removing barriers to voting absentee would allow more people to vote in the manner most convenient for them. New York’s current absentee voting laws also have the potential to disproportionately benefit those with high socioeconomic status;

- **Impact on poll site lines and administrative burden:** A no-excuse absentee voting system is likely to reduce both poll lines and the administrative burden on election officials, thereby decreasing the total cost of administering elections;

- **Effects of no-excuse absentee voting on election litigation:** Removal of the requirement that a voter provide an excuse for not voting at the polls removes the principal basis for challenging absentee ballots, therefore the number of challenged and litigated ballots will decrease.

The City Bar believes that no-excuse absentee voting requires a constitutional amendment, as the state constitution currently precludes the Legislature from enacting no-excuse absentee voting by statute.

Election Law Committee
Martin E. Connor, Chair

Government Ethics and State Affairs Committee
Jennifer Rodgers, Chair

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4 In addition to the enactment of no-excuse absent voting, the City Bar supports legislation which would provide for a flexible in-person early voting period for elections (see [http://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/support-for-early-voting-in-new-york-state](http://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/support-for-early-voting-in-new-york-state)).