

Incarcerated Voter Access Bill: Liman Center Proposed Language

AN ACT FACILITATING VOTING BY PERSONS WHO ARE INCARCERATED IN CONNECTICUT CORRECTIONAL FACILITIES

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2021*) (a) As used in this act:

This is a section of definitions.

(1) “Commissioner” means the Commissioner of the Department of Correction or any employee or agent of the Department of Correction.

(2) “Correctional facility” means a correctional institution, community correctional center or other facility administered by the Commissioner.

(3) “Person who is incarcerated” means a person (or persons) committed to the custody of the Commissioner for confinement in a correctional facility.

(4) “Secretary of the State” has the same definition as in section 9-3.

(5) “Custodial roster” means a list of all persons who are incarcerated at correctional facilities in the State of Connecticut. Such a list shall at a minimum include each person’s: (1) full name; (2) date of birth; (3) residential address; and (4) the address of the correctional facility at which they are located.

(6) “State-wide centralized voter registration system” has the same definition as in section 9-50b.

(7) “List of incarcerated electors” means a list of all eligible persons registered and eligible to vote who are incarcerated at a correctional facility. Such a list shall at a minimum include each person’s: (1) full name; (2) date of birth; (3) residential address; and (4) the address of the correctional facility at which they are located.

Sec. 2. (NEW) (*Effective July 1, 2021*)

(a) The Secretary of the State shall distribute to the Commissioner up-to-date written materials detailing the qualifications and rights of persons who are incarcerated to vote if the person is an elector, as defined in section 9-1, and detailing the process of absentee voting from a correctional facility.

This section requires the Department of Correction (DOC) to provide voter registration forms to all individuals upon intake at a correctional facility. It also requires DOC to provide any personally identifying information in DOC records necessary for voter registration. DOC must then submit all voter registration forms to the DMV for processing. Alternatively, DOC may provide internet access to complete voter registration online.

(b) Not later than seven days after a person is incarcerated in a correctional facility, either initially or by transfer from another correctional facility, the Commissioner shall provide that person: (1) the written materials described in subsection (a) of this section; and (2) a mail-in voter registration application form described in 9-19h(b) of the general statutes. The Commissioner shall also inform that person of the right to seek voter registration assistance as outlined in subsection (c) of this section.

(c) Upon request by any person who is incarcerated, the Commissioner shall provide that person with any available identifying information required to complete voter registration under section 9-23r, including but not limited to: (1) a valid Connecticut motor vehicle operator's license number or a Department of Motor Vehicles-issued non-driver identification number; (2) the last four digits of the individual's Social Security number; or (3) a government document showing the name and address of the elector in the State of Connecticut. Such identifying information shall be considered available if it is contained in the person's inmate master file maintained the Commissioner under section 18-81.

(d) The Commissioner shall collect all completed voter registration forms from persons who are incarcerated and shall submit them forthwith to the Commissioner of the Department of Motor Vehicles, who shall process them pursuant to section 9-19h(b). When within twenty-one calendar days of the deadline for mail-in voter registration applications under section 9-23g(d), the Commissioner shall submit any completed voter registration forms within one calendar day of collection. Such collection and submission shall be at no cost to the person who is incarcerated. If such collection and submission is conducted via mail, it shall be via expedited mail.

(e) In lieu of the requirements of subsection (d) of this section, provided that the person who is incarcerated has a valid Connecticut Driver's license number or a Department of Motor Vehicles-issued non-driver identification number, the Commissioner may: (1) provide computer access to enable a person who is incarcerated to register to vote using the online voter registration system established under section 9-19k of the general statutes; and (2) assist a person who is incarcerated in completing an online voter registration application.

Sec. 3. (NEW) (Effective July 1, 2021) (a) The Commissioner shall, on or before the eighteenth day but no earlier than the twenty-first day before an election, transmit to the Secretary of the State: (1) a complete custodial roster; and (2) the list of disqualified electors required to be kept by section 9-45.

This section provides for coordination and data-sharing between the Secretary of the State and the DOC. The Secretary must compare the DOC's population roster with the Secretary's voter file to identify, before an election, a list of all eligible and registered voters who are currently incarcerated. That list would then be shared with town clerks, who will automatically send absentee ballots to all individuals on the list.

This automatic absentee process avoids the need for incarcerated voters to obtain a paper absentee ballot request form and mail that form in before receiving a ballot.

(b) The Secretary of the State, within three calendar days of receipt of the information required under subsection (a), shall compare the custodial roster and the list of disqualified electors submitted by the Commissioner with the state-wide centralized voter registration system to determine which persons who are incarcerated are registered and eligible to vote. The Secretary of the State shall immediately thereafter transmit to all town clerks the complete list of incarcerated electors, arranged in alphabetical order of the municipality where the electors are registered.

(c) Upon receipt of the list of incarcerated electors under subsection (b), a town clerk shall deem each person who is incarcerated to be eligible to vote by absentee ballot pursuant to section 9-135(a)(2), and shall mail an absentee voting set to each person in accordance with sections 9-140(e)-(i) at the address of the facility at which they are located.

(d) For all individuals who are incarcerated but not included on a custodial roster submitted to the Secretary of the State, having become incarcerated after the Commissioner submits the custodial roster but before the day of an election, the Commissioner shall immediately: (1) inform the individual in writing of the opportunity to apply for an absentee ballot and instructions for completing the application for an absentee ballot; (2) provide an application for an absentee ballot as described in section 9-139a of the general statutes; and (3) make available (A) a list of addresses for all town clerks in the State of Connecticut; and (B) a postage pre-paid envelope for the mailing of any absentee ballot application. The Commissioner shall perform the duties set forth in this subsection no later than one calendar day after initial intake into the correctional facility.

(e) Upon receipt of an absentee ballot application from a person who lists a correctional facility as their mailing address and who is not already on the list of incarcerated electors provided by the Secretary of the State in the days leading up to an election, a town clerk may either: (i) mail an absentee ballot set directly to the applicant at the applicant's place of confinement; or (ii) identify a designee for the purpose of delivering the ballot to the confined elector and returning it to the town clerk. However, if the applicant is confined to a correctional facility within their municipality, town clerk shall identify a designee for the purpose of delivering the ballot to the confined elector and returning it to the town clerk.

Sec. 4. Subsection (a) of section 9-19h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(a) The Department of Social Services, the Labor Department and the Department of Motor Vehicles shall make voter registration information and materials available to the public. Such information and materials shall be placed in public areas of the offices of such departments. The

This section provides for the dissemination of voter registration and eligibility information to all incarcerated individuals.

State Library and the libraries of the state's public institutions of higher education shall also make such information and materials available to users of the libraries. The Department of Correction shall also make such information and materials available to persons who are incarcerated. The Secretary of the State shall provide such departments, such libraries and any libraries open to the public with suitable nonpartisan literature, materials and voter registration application forms authorized under sections 9-23g, as amended by this act, and 9-23h. The secretary shall also provide to the Department of Social Services, the Labor Department, [and] the Department of Motor Vehicles and the Department of Correction any furniture needed to display such literature, materials and forms.

Sec. 5. Subsection (k) of section 9-140 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

The amendments to this section would allow DOC employees to distribute absentee ballot applications to incarcerated individuals as needed without registering with the Secretary of the State.

(k) (1) A person shall register with the town clerk before distributing five or more absentee ballot applications for an election, primary or referendum, not including applications distributed to such person's immediate family. Such requirement shall not apply to (A) a person who is the designee of an applicant, or (B) the Commissioner of the Department of Correction with regard to the provision of absentee ballot applications under section 4 of this act to persons who are incarcerated.

(2) Any person who distributes absentee ballot applications shall maintain a list of the names and addresses of prospective absentee ballot applicants who receive such applications, and shall file such list with the town clerk prior to the date of the primary, election or referendum for which the applications were so distributed. Such requirement shall not apply to the Commissioner of Correction with regard to the provision of absentee ballot applications to persons who are incarcerated.

(3) Any person who distributes absentee ballot applications and receives an executed application shall forthwith file the application with the town clerk.

Sec. 6. Subsection (m) of section 9-140 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

(m) The Secretary of the State shall conspicuously post on the Secretary of the State's web site, adjacent to the absentee ballot application form available for downloading, a notice that the application may be downloaded by a person only for (1) the person's own use, (2) the use of a member of the person's immediate family, [or] (3) the use of a designee of the applicant, or (4)

the use of the Commissioner of the Department of Correction. The notice shall also contain an advisory statement concerning the requirements of subsection (k) of this section.

Sec. 7. Subsection (b) of section 9-140b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*).

As used in this section and section 9-150c, “designee” means (1) a person who is caring for the applicant because of the applicant's illness or physical disability, including but not limited to, a licensed physician or a registered or practical nurse, (2) a member of the applicant's family, who is designated by an absentee ballot applicant and who consents to such designation, (3) the Commissioner of the Department of Correction with regard to absentee ballots returned by applicants who are incarcerated in correctional facilities or (4) if no such person consents or is available, then a police officer, registrar of voters, deputy registrar of voters or assistant registrar of voters in the municipality in which the applicant resides.

Sec. 8. (NEW) (*Effective July 1, 2021*) The Commissioner shall establish, at minimum, one location within each correctional facility where persons who are incarcerated may complete any voter registration form, absentee ballot and any other related paperwork in private.

Sec. 9. (NEW) (*Effective July 1, 2021*) The Department of Correction shall:

- (a) Maintain a log of all incoming correspondence from the Secretary of State, the State Elections Enforcement Commission, any town clerk, and any registrar of voters to persons who are incarcerated.
- (b) Post all outgoing mail from persons who are incarcerated to the Secretary of the State, the State Elections Enforcement Commission, any town clerk, and any registrar of voters without unnecessary delay.
- (c) Deliver all incoming mail from persons who are incarcerated to the Secretary of State, the State Elections Enforcement Commission, any town clerk, and any registrar of voters to any person who is incarcerated without unnecessary delay.
- (d) Maintain a log of all voter registration applications supplied directly to persons who are incarcerated by the Department of Correction indicating the date such items were provided to a person who is incarcerated.
- (e) Maintain a log of all absentee ballots completed by persons who are incarcerated and given to staff or agents of the Department of Correction to be posted indicating the date such items were received and posted.

The amendments to this section would allow DOC employees to touch, handle, process, mail, and deliver absentee ballots for incarcerated voters. This already occurs in practice.

This section requires the DOC to provide a private space for election paperwork to be completed.

This section provides that the DOC should keep records of all correspondence relating to elections. It obligates the DOC to track election forms and facilitate their timely delivery.

Sec. 10. (NEW) (Effective July 1, 2021) (a) The Commissioner, not later than fourteen days after any election or referendum, shall file a written report with the Secretary of the State, detailing the actions taken under this act, in a form prescribed by the Secretary of the State. The Commissioner shall track and include in the report any documented complaints or grievances, which shall be anonymized, from persons who are incarcerated related to their efforts to register or to vote. The report shall be a public record.

This section requires that the DOC and the Secretary of the State coordinate and report on the voting process for incarcerated individuals after every election. This information shall be made public.

(b) The Secretary of the State shall issue a report, not less than six months but not more than ten months, following any election. Any such report shall include information on: (1) the number of persons incarcerated who were eligible to vote at the time of the election; (2) the number of persons incarcerated who requested to register to vote and the outcome of those requests in each municipality, including the reason for rejection if applicable; (3) the number of persons incarcerated who requested an absentee ballot and the outcome of that request in each municipality, including the reasons for rejection if applicable; (4) each municipality's current policies and practices regarding outreach to eligible incarcerated electors if applicable; and (5) recommendations and best practices for policies and practices regarding outreach to eligible incarcerated electors. The report shall be a public record.

Sec 11. (NEW) (Effective July 1, 2021) (a) The Secretary of the State and the Commissioner shall jointly study registration and voting in correctional facilities by those eligible to vote. The study shall be conducted in collaboration with registrars of voters, town clerks, and the Connecticut Sentencing Commission as established by section 54-300. Such study shall include, but not be limited to, consideration of and recommendations for: (1) a process for informing pretrial detainees and persons convicted of a misdemeanor that they are eligible to register and vote; and (2) procedures to facilitate voter registration and absentee voting in correctional facilities. Not later than October 1, 2021, the Secretary of the State and the Commissioner shall report their findings and recommendations to the joint standing committees of the General Assembly having cognizance of matters relating to elections and correctional facilities. The Secretary and the Commissioner shall conduct the study within available appropriations.

This section calls for an implementation study. It provides that the Secretary of the State and the DOC will study their current practices and, no later than October 1, 2021, report to the General Assembly their recommendations related to facilitating voting in correctional facilities.