



## *Department of the Secretary of State*

### *Bureau of Corporations, Elections and Commissions*

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## **Guidance on Issuing Ballots and Absentee Voting in the Clerk's Office for the November 3, 2020 General Election**

*Prepared by the Secretary of State, September 25, 2020*

### **Processing Absentee Ballot Applications for Existing Voters; Residency not Questioned**

- Title 21-A §751 allows any voter to request and cast an absentee ballot, as long as they make the request by one of the methods prescribed by law.
- If a voter properly completes an absentee ballot request and provides a current residence address that matches the address on file in CVR, then the clerk must process the application and issue a ballot to the voter without questioning why the voter is voting by absentee or whether the voter has moved to the address to which the ballot is being sent.
- Conversely, if a voter properly completes an absentee ballot request but provides a current residence address that is different from the address on file in CVR, then the clerk must handle the application as follows:
  - If the absentee ballot request is signed by the voter, then the registrar of voters can use the signed absentee ballot application as a change of address for voter registration purposes. The registrar must update the voter's address in CVR, and the clerk must issue the absentee ballot to the address listed on the application.
  - If the absentee ballot request is NOT signed by the voter (as with an electronic request or telephone request), then the clerk must reject the absentee application; notify the voter that they are not registered to vote at the address listed on the absentee ballot application; and direct them to submit a voter registration application showing the new address. Upon receipt of a signed voter registration application with the new residence address, the clerk can accept and process the voter registration and absentee ballot applications and issue the absentee ballot to the address listed on the application.

### **Receipt of Absentee Ballots from the State; Issuance of Ballots in Response to Requests**

- Title 21-A §752 requires that the Secretary of State furnish absentee ballots to each municipality at least 30 days before each election - absentee ballots should be delivered to all municipalities by October 2<sup>nd</sup>.

- After absentee ballots become available, §753-B(1) requires the clerk to “immediately issue” an absentee ballot and return envelope to a voter upon receiving and accepting an application or written request. However, since the law does not define what it means to “immediately issue” the ballots, we advise the following:
  - Depending on the number of pending applications a municipality has when the absentee ballots are received, we understand it may take several days to issue these ballots. This process can be streamlined by printing address and bar code labels when you process the requests, affixing them to the CIV-O and CIV-I envelopes, and having these envelopes “staged” and ready to insert ballots and instructions.
  - After ballots have been sent to all voters whose applications were received prior to ballot receipt, we advise municipalities to process new applications and issue ballots as quickly as possible, but no later than 1-2 working days of receipt. If your office is only open one day per week, then all requests should be processed, and ballots issued on that day.
  - **We recommend that you advise all voters that mail delivery by the USPS may take 5 to 7 days. Accordingly, the voter may wish to consider returning their ballot to the municipal office or to a secure drop box if your municipality has one.**

### **In-person Absentee Voting (Voting in the Presence of the Clerk) Starting October 5, 2020**

- Title 21-A §753-B(8) allows any voter who wishes to vote by absentee ballot to vote in the presence of the clerk.
- Since absentee ballots will be provided to all municipalities no later than October 2<sup>nd</sup>, we advise that in-person absentee voting must be offered in each municipality during the normal business hours of the clerk’s office beginning as soon as possible after the ballots have been received and verified, so long as COVID guidelines for physical distancing and sanitation are followed.
- If the town has limited office hours, or offers constituent services by appointment only, then voters who wish to vote an absentee ballot in-person should be accommodated in the same manner as for other municipal services.

### **In-person Absentee Voting Required on Friday, October 30, 2020, per Executive Order 8**

- In Executive Order 8 FY19/20, the Governor extended the deadline for voters to request (and vote) an in-person absentee ballot without a reason, until 5 pm on the second **business day** before the election, or Friday, October 30<sup>th</sup>. (All other ballot request deadlines remain as in current law.)
- Title 21-A §1(4) defines “business day” to mean “any day of the calendar year other than a Saturday, Sunday or legal holiday”. Thus, the term business day applies to Friday, October 30<sup>th</sup>, regardless of whether or not the clerk’s office is normally open on Fridays.
- Accordingly, we interpret the executive order to require municipalities to be open and to offer absentee voting in the presence of the clerk until 5 pm on Friday, October 30th. The executive order does not specify a start time; however, since this is the last day for no-reason absentee voting for the general election, we would encourage towns to be open at least 4 hours on that day (i.e., from 1 pm to 5 pm) even if the office is not normally open then.