



Governor's Advisory Council for Exceptional Citizens (GACEC)
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MEMORANDUM

DATE: May 1, 2019

TO: The Honorable Members of the Delaware General Assembly

FROM: Ann C. Fisher, Chairperson
GACEC

RE: House Bill No. 73 Constitutional Amendment Eliminating Limitations on Absentee Voting

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 73, which is the first leg of a constitutional amendment that will remove the limitations on who can vote by absentee ballot from the Article V, Section 4A of the Delaware Constitution. The bill will empower the General Assembly to "enact general laws providing the circumstances, rules, and procedures by which registered voters may vote by absentee ballot." Council supports House Bill 73 since it will allow more flexibility in the Delaware absentee ballot system. However, we would like to share an observation.

The current provision permits absentee ballots for persons who need them "because of his or her sickness or physical disability." Del. Const. Art. V § 4A (emphasis added). The term "physical" should be removed. The presence of the term "physical" in the constitutional text might discourage some persons with disabilities who need absentee ballots from requesting them. Moreover, a distinction between "physical" and "mental" disabilities (or however else one might categorize "non-physical" disabilities) serves no practical purpose. If a disability causes an individual to require an absentee ballot, the type of disability should be irrelevant.

According to the National Conference of State Legislatures, only nineteen states, including Delaware, require voters requesting absentee ballots to provide a reason for the request. <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>. Of those nineteen, only eleven, including Delaware, require a reason to request an absentee ballot and lack any form of early voting (i.e., either in-person early voting or "in-person absentee voting")

wherein a person can apply for an absentee ballot and immediately cast that ballot in one trip to an election official's office). *Id.* Eliminating the requirement to provide a reason for requesting an absentee ballot will benefit persons with disabilities and caregivers in multiple ways. It will simplify the application, remove any doubt from caregivers as to whether they are entitled to request absentee ballots, and ensure that all caregivers that need them are able to request absentee ballots. Additionally, eliminating the need to provide a reason for the request will eliminate any fear that persons with disabilities may have about a possible need to "prove" that they have disabilities.

Although not directly related to this legislation, there is another voting mechanism worth mentioning while changes to voting are being discussed. At least one state (Indiana), has a mechanism whereby persons who need absentee ballots, but who require assistance completing the ballot and affidavit, can vote by absentee ballot with the assistance of a "traveling board." <https://www.in.gov/sos/elections/2402.htm>. The traveling board, which includes members of both major political parties, travels to the voter, brings the ballot, and assists voter with filling out the ballot (similar to the way in which a person in Delaware who requires assistance at the polls). Because the assistance is provided by people from both political parties, the risk of improper influence over the voter is minimized. Also, because the traveling board brings the ballot, helps the voter fill out the ballot, and takes the ballot, the process is as simple as possible for the voter. A system like this would benefit persons with disabilities who cannot get to their polling sites and who lack adequate assistance in their homes to be able to complete absentee ballots at home. The GACEC would encourage the Department of Elections to investigate the Indiana system to see if something similar might be able to be implemented in Delaware.

Thank you for your time and consideration of our endorsement and comments. Please feel free to contact me or Wendy Strauss at the GACEC office should you have any questions.