



**MEMORANDUM OF SUPPORT  
A642B (Myrie)/S284B (Carroll)**

**TITLE OF BILL**

An act to amend the election law, in relation to counting of affidavit ballots.

**SUMMARY**

This bill would require counting the votes of eligible voters who cast an affidavit ballot at an incorrect poll site but in the correct county, instead of disqualifying the entire ballot. Only votes for contests to which that individual was entitled to vote in would be counted.

**STATEMENT OF SUPPORT**

Citizens Union strongly supports A642B/S284B as it would end a common practice that leads to countless affidavit ballots being unfairly disqualified simply because eligible voters voted at a wrong poll site. Under current election law, poll workers are required to redirect voters to their correct poll site, if they appear at a wrong one. Yet, this does not always happen; poll workers sometimes instruct these “lost” voters to use an affidavit ballot at the incorrect poll site. That entire affidavit ballot then gets disqualified because it was cast at an incorrect poll site<sup>1</sup>, including the votes for contests that the voter was entitled to vote in, such as Governor, U.S. President, U.S. Senate, or even congressional and countywide races. These ballots are often disqualified unbeknownst to the voter.

This mechanism for disqualifying ballots, known as “wrong church,” is more common than many realize. In the 2020 general election, more than 13,800 affidavit ballots were disqualified because they were cast at the incorrect poll site. A disproportionate amount of “wrong church” ballots came from communities of color and dense residential neighborhoods. Most of those ballots (9,481 or about 69%) came from New York City. Four of the five most impacted NYC

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<sup>1</sup> Election Law § 9-209(7)(d)

Assembly Districts were in the Bronx; all four of which are majority-minority districts. In fact, “wrong church” was the largest source of disqualified affidavit ballots cast by duly registered voters in New York.<sup>2</sup>

Given low voter turnout rates in New York and the often-narrow vote margin, those uncounted votes can have a significant impact on the accuracy of final certified election results. In the closely watched 2020 election for the 22<sup>nd</sup> congressional district, there were more votes disqualified due to the “wrong church” policy than the certified vote margin standing between the candidates.<sup>3</sup>

Furthermore, the proposed legislation is secure and easy to implement. Affidavit ballots are cross referenced by election officials to ensure that voters are eligible to vote and verify they did not vote more than once. States including Maryland, New Jersey, and Massachusetts<sup>4</sup> among others, have passed provisions that allow officials to count votes for eligible contests only, as opposed to disqualifying entire ballots.

In states across the country, the right to vote is under attack. New York must do everything it can to ensure that every eligible voter who turns out to vote has their voice heard. Citizens Union believes A642B/S284B would reduce unnecessary disqualification of votes, protect civil rights, and result in more accurate election outcomes.

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<sup>2</sup> VoteEarly NY, “Impact of New York’s ‘Wrong Church’ Ballot Disqualification Rule in the 2020 General Election”. May 20, 2021. <https://secureservercdn.net/45.40.150.47/int.423.myftpupload.com/wp-content/uploads/2021/05/VoteEarlyNY-Report-Impact-of-New-Yorks-Wrong-Church-Ballot-Rule-in-the-2020-General-Election-FINAL-web.pdf>

<sup>3</sup> Ibid.

<sup>4</sup> Md. Code Ann., Elec. Law § 11-303(e)(2) <https://law.justia.com/codes/maryland/2020/election-law/title-11/subtitle-3/section-11-303/>. N.J. Stat. Ann. § 19:53C-17 <https://law.justia.com/codes/new-jersey/2013/title-19/section-19-53c-17/>. Mass. Gen. Laws Ann. ch. 54, § 76C(d) <https://malegislature.gov/laws/generallaws/parti/titleviii/chapter54/section76c>