

Can the dead vote in NJ? Sometimes

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The increase in early voting and mail-in ballots is raising questions about counting the choices of recently deceased residents



Credit: (Preservation Maryland Flickr)

Cemetery gates

An election reform bill sitting on the governor's desk could give preferential treatment to people who voted early but died before Election Day, depending on how they cast their ballot.

No, it's not another joke made at New Jersey's expense. The recent expansion of mail-in and early in-person voting has made counting or discarding dead

voters' ballots a serious issue.

Thirteen states require election officials to count mail-in ballots if a person dies after [casting a vote](#) before Election Day, according to the National Conference of State Legislatures. New Jersey is one of another 13 that do not tally such votes.

Before recessing for the summer, both houses of the Legislature passed without objection [A-3823](#), one of a package of election reform bills that includes a provision to require a more robust comparison of death records against voter registration rolls. Under the bill, the municipal employee responsible for death records would have to report the deaths of all those 18 and older to the county election registration commissioner biweekly in the two months leading up to an election. The commissioner would then have 10 days to check deaths against voter registration records and remove the deceased from the voter rolls.

Union County Elections Administrator Nicole DiRado said standardizing that process statewide would be positive and help to keep the registration system clean.

"The local registrars are not all on the same page in terms of when they send their death reports, so to have a more consistent source of data coming in is great," she said. "It really helps to be able to keep our rolls as clean as they can be."

Beth Thompson: 'If you voted your ballot, you've signed your ballot and you die before the election, your vote should count.'

Others point out that it could mean rejecting ballots of more individuals who die after voting early by mail. After receiving a mail-in ballot, county election officials check it against the voter registration system to ensure the person is eligible to vote. Removing voters who die from the system more quickly could catch more ballots, likely a very small number.

Death's double standard

The commencement of early in-person voting last November created something of a double standard.

If a person dies after voting early in person but before Election Day, their vote will count. Since they by definition used a voting machine, their choices are combined with everyone else's. There's no way to identify or recall it. Early in-person voting in the state begins 10 days before Election Day in a general election and four days prior to a primary.

That means the vote of someone who casts their ballot in person 10 days early and then dies will be counted, while a person who dies after mailing their ballot would have it rejected.

And that doesn't sit well with some election officials.

"They need to stop this," said Beth Thompson, administrator of the Hunterdon County Board of Elections. "They need to create a law that benefits the voter." Regardless of whether a person voted by mail or in person, "if you voted your ballot, you've signed your ballot and you die before the election, your vote should count. Your vote should absolutely count as long as you were the one who voted."

Single-digit voter pool

Several election officials said the number of people impacted would be very small.

Eileen Kean, secretary of the Monmouth County Board of Elections, said that during a presidential election year, when turnout is highest, the board rejected no more than six or eight mail-in ballots after learning a person died.

“I’ve been on the Board of Elections for six years now and I’ve seen it many times,” Kean said. “If they’re not alive on Election Day, we do not count it, even though they’ve already sent it in. And the rationale behind that is because, by law, we are not allowed to open that inner envelope until Election Day, so that’s why we do it. I remember the first time we did it, I was amazed.”

Wendy Underhill: ‘Death makes no distinction between Democrats, Republicans and independents as they cast their absentee ballots.’

Another bill pending before Murphy, [A-3822](#), could move that date a little. It would allow counties to open and begin canvassing mail-in ballots up to five days before Election Day. This early scanning of ballots was permitted in 2020 only for the presidential election. The legislation would permit, but not require, counties to do this for all elections, which would alleviate some of the Election Day pressures on election officials.

Once a ballot is removed from its envelope, on which the voter’s name is listed, it becomes anonymous and there would be no way to tell whether it was voted by a person who subsequently died.

Currently, counties do not all approach mail-in ballots and voter deaths the same way.

DiRado said state law holds that “the voter has to have been eligible to vote on Election Day, so if they died prior to Election Day, then they’re not eligible to vote.” But as a practical matter, Union County checks the ballots against the voter rolls as they are received, and as long as the voter was alive at that time, “we don’t go back and double-check to see the possibility if 20,000 people (who mailed in ballots) have died.” She said that the county has rejected ballots received after a person died.

In a blog post for the National Conference of State Legislatures, Wendy Underhill wrote that most states require ballots to be rejected only if election

officials know about the death and if it turns out a vote was counted when it shouldn't have been, that does not invalidate the election. She said the issue is one that crosses party lines.

“Unlike many election-policy questions, this one does not have a partisan edge,” she wrote. “Death makes no distinction between Democrats, Republicans and independents as they cast their absentee ballots.”