



**BREAKING NEWS from
LIBERTY JUSTICE CENTER**

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New York voters sue to stop massive expansion of absentee voting
Removal of limits on absentee voting is illegal and opens election to fraud

ALBANY, N.Y. (Aug. 19, 2022) — Voters from across the state of New York and a county party committee have sued to stop a state law that allows near universal access to absentee voting. The law allows voters to receive an absentee ballot if they fear a communicable disease, while the state constitution carefully limits absentee voting to voters who have an actual illness or disability as part of an overall insistence on in-person voting whenever possible.

The New York voters and the Schoharie County Republican Committee are represented by the Liberty Justice Center, a national nonprofit law firm dedicated to protecting Americans' constitutional rights. The case was filed in Warren County against the New York State Board of Elections and county election officials in Warren, Broome, and Schoharie counties. Yesterday, the plaintiffs filed an emergency motion seeking expedited relief before the fall election.

Daniel Suhr, managing attorney at the Liberty Justice Center, said, "For over a century, New York has protected its voters against fraud and coercion by narrowly limiting when absentee balloting is an option. This provision of the state constitution protects election integrity and prevents ballot harvesting. Undermining these protections not only increases the possibility of illegal or invalid ballots, but it also opens the door to the legislature rewriting the true meaning and intent of the state constitution on this and other issues in the future. The legislature must respect the will of the voters and the safeguards embedded in the constitution."

In New York, absentee balloting is a privilege and an exception to the normal rule of in-person voting. The state constitution grants the legislature limited authority to allow absentee voting in instances when a voter is away from their residence, ill or disabled. Any expansion of those limited exceptions would require an amendment to the state constitution — something 55 percent of New York voters rejected in Nov. 2021. Nonetheless, New York lawmakers expanded absentee voting to anyone who cannot appear in-person "because there is a risk of contracting or spreading a disease..."

Richard Cavalier, a New York voter and a plaintiff in the lawsuit: "My vote is my voice in our democracy, and I refuse to stand by and let an illegal vote cancel out my legal vote. I was among the majority of New Yorkers who voted to keep election safeguards in the state constitution last year, and I expect the legislature and courts to respect the people's choice."

Background: For over a century, New York's state constitution (Article II, Section 2) has made a limited grant of authority to the legislature to permit absentee voting in exceptional circumstances. One of those circumstances is when a voter is unable to personally appear at the polling place because of illness or physical disability. In 2020 and again in 2021, the legislature adopted laws permitting absentee voting not

only when a voter is actually ill, but also when a voter fears contracting COVID-19 or another communicable disease in the polling place. Voters recently rejected 2021 Proposition 4, which would have amended Section 2 to permit no-excuse absentee voting.

The lawsuit, *Cavalier v. Warren County Board of Elections*, was filed July 20, 2022, in Supreme Court of New York, County of Warren. The Motion for Preliminary Injunction was filed Aug. 18, 2022. Case filings are available here: <https://libertyjusticecenter.org/media/new-york-absentee>

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The Liberty Justice Center is a nonprofit, public-interest litigation center that fights to protect Americans' fundamental constitutional rights. Its team of expert constitutional attorneys fight to expand school choice, protect workers' rights and free speech, combat cancel culture and government overreach and improve the lives of everyday Americans. The Liberty Justice Center is best known for its 2018 U.S. Supreme Court victory in *Janus v. AFSCME*. Learn more about the Liberty Justice Center at [LibertyJusticeCenter.org](https://libertyjusticecenter.org).