



COMMITTEE ON JUDICIARY  
Sen. Karl Rhoads, Chair  
Sen. Mike Gabbard, Vice-Chair

Friday, January 27, 2023, 10:00 a.m., Room 016 and Via Videoconference  
SB 19 RELATING TO CAST BALLOTS  
TESTIMONY

Janet Mason, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Gabbard, and Committee Members:

**The League of Women Voters of Hawaii supports SB 19**, that would guarantee the vote of eligible voters who cast their ballot and then subsequently die or otherwise become ineligible before election day.

Most registered voters now use the Hawaii's mail-in-ballot during elections. However, it remains possible to vote absentee, should you be away from Hawaii during the voting period, for example. It is also possible, of course, to vote in person at a voter service center.

Regardless of which method is used, if a registered voter submits a valid ballot on time it is possible the voter may become subsequently ineligible, including by death or perhaps by moving and registering to vote in another state after submitting their valid Hawaii ballot.

Importantly, this bill makes clear that anyone who was eligible to vote in Hawaii at the time they cast their ballot should have this ballot counted, even if they later become ineligible. Every vote counts.

Thank you for the opportunity to submit testimony.

## Public Testimony in Opposition to SB19

Corinne Solomon  
Oahu Resident

I oppose SB19. Current Hawaii Law already states that votes from eligible-to-ineligible voters are counted:

**HRS §15-13.5 Eligibility of voter after absentee ballot cast.** The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote after casting the ballot. For the purposes of this section, "cast" means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section 15-9(a)(1);
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section 15-9; or
- (3) Completed voting in person at an absentee polling place. [L 2019, c 10, §1; am L 2021, c 213, §38]

**[§15D-10.5] Eligibility of covered voter after ballot cast.** The military-overseas ballot of any covered voter who was eligible to vote at the time the ballot was cast in accordance with this chapter shall not be deemed invalid solely because the covered voter became ineligible to vote after casting the ballot. [L 2019, c 10, §2]

**§15-3 Absentee ballot for presidential election.** If ineligible to qualify as a voter in the state to which the voter has moved, any former registered voter of Hawaii may vote an absentee ballot in any presidential election occurring within twenty-four months after leaving Hawaii by requesting an application form and returning it properly executed to the county of the voter's prior Hawaii residence. When requesting an application form for an absentee ballot, the applicant shall specify the applicant's eligibility for only the presidential ballot, and the fact of applicant's ineligibility to vote at the applicant's new place of residence verified by the voter registrar or the registrar's authorized representative in the jurisdiction of the applicant's new residence. The application must be received in sufficient time for ballots to be mailed and returned prior to any presidential election at which the applicant wishes to vote. All required information pursuant to the rules promulgated by the chief election officer shall be completed in full. [L 1975, c 36, pt of §3; gen ch 1985]

How do you become an ineligible voter?

- You die
- You are convicted of a felony
- You vote in another state (you can move out of state and still vote in Hawaii elections)
- You relinquish US Citizenship

Mail ballots are separated from their envelopes and thus cannot be traced back to any voter, ineligible or not.

## So how many potential eligible-to-ineligible voters are there?

Based on election season calendars, in an election year we are looking at roughly 6 weeks total time of voting for the Primary and General combined.

How many people potentially become ineligible to vote in 6 weeks?

We can calculate the monthly average of deaths, incarcerations for felonies, and moves out of state based on publicly available data.

### Total deaths for 2021:

Hawaii County	1988
Honolulu County	9009
Kauai County	536
Maui County	1362
State Total	<b>12,895</b>

<https://health.hawaii.gov/vitalstatistics/preliminary-vital-statistics-for-2021/>

That's an average of 1075 deaths per month, multiply by 1.5 for 1.5 months of voting we get an average of 1612 deaths for 6 weeks of election season. Not all are voting age, not all are registered to vote. That is a large number of people to track...and if they've already voted and their mail ballots were removed from their envelopes, how would the county clerk go back and guarantee the dead persons' vote was counted?

### Newly ineligible felon voters:

Publicly available data for the month of August 2022 shows there were 1235 adult felons incarcerated in state. Multiplying by 1.5 for our election season gives us an average of 1853 felons for a 6 week period.

To determine which felons were newly incarcerated and *may* have cast a ballot before going to jail is going to take some legwork on the part of the county clerks. Are they going to communicate daily with the prisons to check the mail-in ballots before they are separated from their envelopes and set aside the new felons' ballots to make sure they are counted?

### Out of state moves:

Hawaii voting laws already guarantee that you can move out of state in Hawaii and still vote.

Here is the statute on what it takes to lose Hawaii residency when it comes to voting:  
**HRS §11-13 Rules for determining residency.**

- (7) A person loses the person's residence in this State if the person votes in an election held in another state by absentee ballot or in person.

On average, how many Hawaii residents move out of state in a 6 week period?

In a UHERO [study](#) 67,293 Hawaii residents moved out of state in 2018.

[Census data](#) for 2019 shows Hawaii's outmigration to other states as 68,417 for 2019. Using the 2019 census data and our 6 week voting season model, that's an average of 7894 Hawaii residents moving out in a 6 week period.

78.1% of Hawaii residents are of voting age, which means on average 6165 voting age Hawaii residents moved out of state in a 6 week period in 2019.

To effectively enforce SB19 county clerks would need to monitor the registered voters of the pool of those 6165 and somehow guarantee that after their ballots are separated from the envelopes that their votes are still counted.

**Adding a 6 week average of deaths, convicted felons, and residents moving out of state gives us 9630 potential eligible-to-ineligible ballots to track, both before and after they have been removed from their signature envelopes.**

**SB19 offers no insight on how this would be accomplished.**

**We need a simpler election system of in-person Election Day voting with Voter ID, not one that requires complicated statutes that cannot be enforced.**

**LATE**

**SB-19**

Submitted on: 1/26/2023 11:30:44 PM

Testimony for JDC on 1/27/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Scott Shedko	Individual	Oppose	Written Testimony Only

Comments:

Hawaii already has HRS§15, stating eligible-to-ineligible votes are counted. We do not need more verbiage making our laws even more confusing to the general public, especially regarding our elections. We need to simplify!

Thank you!