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FIRST REPRINT

A.B. 328

ASSEMBLY BILL NO. 328—ASSEMBLYMEN SMITH, PARNELL,  
BOBZIEN, KOIVISTO, CONKLIN, ALLEN, ANDERSON,  
ATKINSON, GANSERT, HORNE, KIHUEN, KIRKPATRICK,  
LESLIE, MCCLAIN, OCEGUERA, PARKS AND WOMACK

MARCH 15, 2007

Referred to Committee on Elections, Procedures, Ethics,  
and Constitutional Amendments

SUMMARY—Makes various changes relating to elections.  
(BDR 24-1045)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to elections; revising provisions relating to the powers of the chairman of an election board; providing that the Attorney General and district attorneys have concurrent jurisdiction to enforce the provisions of title 24 of NRS upon request of the Secretary of State; revising provisions relating to requesting and casting an absent ballot for an election; revising the provisions governing a person who helps another register to vote; providing a penalty; and providing other matters properly relating thereto.

#### Legislative Counsel's Digest:

- 1 Existing law provides that if a vacancy on an election board occurs on the day
- 2 of an election and there are no reserve election board officers available, the election
- 3 board may appoint to the election board a registered voter who is qualified and
- 4 willing to serve. (NRS 293.225) **Section 1** of this bill provides that the county or
- 5 city clerk is required to appoint a poll manager for each polling place. The county
- 6 or city clerk or the poll manager will have the authority to appoint any person who
- 7 is qualified and willing to serve to an election board in the cases of a vacancy
- 8 occurring on election day or if a need for more election board officials arises.
- 9 Additionally, if a polling place is the site of more than one election board, the poll
- 10 manager may reassign election board officers from one election board to another.
- 11 Existing law provides that the Secretary of State is responsible for the
- 12 execution and enforcement of the laws governing elections in this State. (NRS
- 13 293.124) **Section 2** of this bill provides that upon request of the Secretary of State,



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the Attorney General and the district attorneys may investigate and prosecute violations of election laws.

Existing law authorizes a registered voter to request an absent ballot for an election. Additionally, certain registered voters are authorized to request an absent ballot for all elections conducted during the year that the request is made. (NRS 293.313) **Sections 5-7 and 11-14** of this bill authorize certain registered voters to request an absent ballot for any election conducted after the request is made.

Existing law provides that it is a felony for certain persons to alter, deface or destroy a completed application to register to vote. (NRS 293.505) **Section 8** of this bill revises this provision to provide that it is a felony for such persons to knowingly and willfully alter, deface or destroy or to fail to return to the county clerk a completed application to register to vote.

**Section 10** of this bill provides that it is a category B felony to tamper or interfere with, or attempt to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent of influencing the outcome of an election.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The county or city clerk shall appoint a manager for each polling place at which voting will be conducted during an election.*

*2. The manager for a polling place may:*

*(a) Be a chairman of one of the election boards for a precinct located at the polling place; and*

*(b) If the polling place is a site at which two or more election boards will conduct voting, reassign an election board officer from one of the election boards located at the polling place to a different election board located at the polling place.*

**Sec. 2.** NRS 293.124 is hereby amended to read as follows:

293.124 1. The Secretary of State shall serve as the Chief Officer of Elections for this State. As Chief Officer, the Secretary of State is responsible for the execution and enforcement of the provisions of title 24 of NRS and all other provisions of state and federal law relating to elections in this State.

*2. Upon request of the Secretary of State, the Attorney General and the district attorneys of this State may investigate and prosecute a person who violates a provision of title 24 of NRS and any other provision of state and federal law relating to elections in this State.*

**3.** The Secretary of State shall adopt such regulations as are necessary to carry out the provisions of this section.

**Sec. 3.** NRS 293.217 is hereby amended to read as follows:

293.217 1. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the



1 various precincts and districts in the county as provided in NRS  
2 293.220 to 293.245, inclusive, and 293.384, *and section 1 of this*  
3 *act* and shall conclude those duties ~~the~~ *not* later than 31 days  
4 before the election. The registered voters appointed as election  
5 board officers for any precinct or district must not all be of the same  
6 political party. No candidate for nomination or election or his  
7 relative within the second degree of consanguinity or affinity may  
8 be appointed as an election board officer. Immediately after election  
9 board officers are appointed, if requested by the county clerk, the  
10 sheriff shall:

11 (a) Appoint a deputy sheriff for each polling place in the county  
12 and for the central election board or the absent ballot central  
13 counting board; or

14 (b) Deputize as a deputy sheriff for the election an election  
15 board officer of each polling place in the county and for the central  
16 election board or the absent ballot central counting board. The  
17 deputized officer shall receive no additional compensation for his  
18 services rendered as a deputy sheriff during the election for which  
19 he is deputized.

20 ➤ Deputy sheriffs so appointed and deputized shall preserve order  
21 during hours of voting and attend closing of the polls.

22 2. The county clerk may appoint a trainee for the position of  
23 election board officer as set forth in NRS 293.2175.

24 **Sec. 4.** NRS 293.225 is hereby amended to read as follows:

25 293.225 1. Members of election boards continue as such  
26 from the day before the day of the election ~~to~~ until the time for  
27 filing contests of the election has expired.

28 2. Each member of an election board is subject to call by the  
29 board of county commissioners or city council to correct any errors  
30 discovered during the canvass of votes by the board of county  
31 commissioners or city council.

32 3. Reserve election board officers must be appointed by the  
33 county or city clerk, if practicable, to fill any vacancy which occurs  
34 on the day of the election, and the reserve officers must be  
35 compensated if they serve at the polls.

36 4. If a vacancy occurs in any election board on the day of the  
37 election and no reserves are available, the *county clerk, city clerk or*  
38 *poll manager of the polling place where the* election board *is*  
39 *located* may appoint, at the polling place, any ~~registered voter~~  
40 *person* who is *qualified and* willing to serve and satisfies the  
41 ~~election board~~ *county clerk, city clerk or poll manager* that he  
42 possesses the qualifications required to perform the services  
43 required.

44 5. *If the county clerk, city clerk or poll manager of the polling*  
45 *place where an election board is located determines that additional*



*election board officers are needed on the day of the election and no reserves are available, the county clerk, city clerk or poll manager may appoint, at the polling place, any person who is qualified and willing to serve and satisfies the county clerk, city clerk or poll manager that he possesses the qualifications required to perform the services required.*

**Sec. 5.** NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter ~~[who:~~

~~— (a) Is at least 65 years of age; or~~

~~— (b) Has a physical disability or condition which substantially impairs his ability to go to the polling place;~~

*→] who is at least 65 years of age or has a physical disability or condition which substantially impairs his ability to go to the polling place* may request an absent ballot for ~~[aH]~~ :

*(a) The election immediately following the date on which the county clerk receives the ballot; or*

*(b) All elections held ~~[during the year he requests]~~ after he submits the request for* an absent ballot.

3. As used in this section, “sufficient written notice” means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections immediately following the date on which the county clerk received the request.

*5. If a registered voter who has a physical disability requests an absent ballot pursuant to paragraph (b) of subsection 2, the county clerk may, every year after an absent ballot is issued to the registered voter, require the registered voter to submit a statement confirming that the registered voter continues to have a physical disability or condition which substantially impairs his ability to go to the polling place.*

*6. A county clerk shall not issue an absent ballot for future elections to a registered voter who requests an absent ballot pursuant to paragraph (b) of subsection 2 if:*



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1 (a) *The registered voter does not submit to the county clerk the*  
2 *statement described in subsection 5 or such statement indicates*  
3 *that the registered voter is no longer physically disabled, if*  
4 *applicable;*

5 (b) *The registered voter applies to vote in person pursuant to*  
6 *NRS 293.330;*

7 (c) *The registered voter provides written notice to the county*  
8 *clerk that the registered voter no longer wishes to receive an*  
9 *absentee ballot;*

10 (d) *An absent ballot mailed to a registered voter is returned as*  
11 *undeliverable to the county clerk; or*

12 (e) *The voter's registration has been cancelled.*

13 7. It is unlawful for a person fraudulently to request an absent  
14 ballot in the name of another person or to induce or coerce another  
15 person fraudulently to request an absent ballot in the name of  
16 another person. A person who violates this subsection is guilty of a  
17 category E felony and shall be punished as provided in  
18 NRS 193.130.

19 **Sec. 6.** NRS 293.315 is hereby amended to read as follows:

20 293.315 1. A registered voter referred to in NRS 293.313  
21 may, at any time before 5 p.m. on the seventh calendar day  
22 preceding any election, make an application to that clerk for an  
23 absent voter's ballot ~~[ ]~~ *for that election.* The application must be  
24 made available for public inspection.

25 2. When the voter has identified himself to the satisfaction of  
26 the clerk, he is entitled to receive the appropriate ballot or ballots,  
27 but only for his own use.

28 3. A county clerk who allows a person to copy information  
29 from an application for an absent ballot is immune from any civil or  
30 criminal liability for any damage caused by the distribution of that  
31 information, unless he knowingly and willingly allows a person who  
32 intends to use the information to further an unlawful act to copy  
33 such information.

34 **Sec. 7.** NRS 293.3165 is hereby amended to read as follows:

35 293.3165 1. A registered voter who, because of a physical  
36 disability, is unable to mark or sign a ballot or use a voting device  
37 without assistance may submit a written statement to the appropriate  
38 county clerk requesting that he receive an absent ballot for each  
39 election conducted ~~[during the period specified in subsection 3.]~~  
40 *after he submits the request for an absent ballot.*

41 2. A written statement submitted pursuant to subsection 1  
42 must:

43 (a) Include a statement from a physician licensed in this State  
44 certifying that the registered voter is a person with a physical



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1 disability and, because of the physical disability, he is unable to  
2 mark or sign a ballot or use a voting device without assistance;

3 (b) Designate the person who will assist the registered voter in  
4 marking and signing the absent ballot on behalf of the registered  
5 voter; and

6 (c) Include the name, address and signature of the person  
7 designated pursuant to paragraph (b).

8 3. Upon receipt of a written statement submitted by a  
9 registered voter pursuant to subsection 1, the county clerk shall, if  
10 the statement includes the information required pursuant to  
11 subsection 2, issue an absent ballot to the registered voter for each  
12 election that is conducted ~~[during the year immediately succeeding]~~  
13 *after* the date the written statement is submitted to the county clerk.

14 4. To determine whether a registered voter is entitled to receive  
15 an absent ballot pursuant to this section, the county clerk may, every  
16 year after an absent ballot is issued to a registered voter pursuant to  
17 subsection 3, require the registered voter to submit a statement from  
18 a licensed physician as specified in paragraph (a) of subsection 2. If  
19 a statement from a physician licensed in this State submitted  
20 pursuant to this subsection indicates that the registered voter is no  
21 longer physically disabled, the county clerk shall not issue an absent  
22 ballot to the registered voter pursuant to this section.

23 5. A person designated pursuant to paragraph (b) of subsection  
24 2 may, on behalf of and at the direction of the registered voter, mark  
25 and sign an absent ballot issued to the registered voter pursuant to  
26 the provisions of this section. If the person marks and signs the  
27 ballot, the person shall indicate next to his signature that the ballot  
28 has been marked and signed on behalf of the registered voter.

29 6. The procedure authorized pursuant to this section is subject  
30 to all other provisions of this chapter relating to voting by absent  
31 ballot to the extent that those provisions are not inconsistent with  
32 the provisions of this section.

33 **Sec. 8.** NRS 293.505 is hereby amended to read as follows:

34 293.505 1. All justices of the peace, except those located in  
35 county seats, are ex officio field registrars to carry out the  
36 provisions of this chapter.

37 2. The county clerk shall appoint at least one registered voter to  
38 serve as a field registrar of voters who, except as otherwise provided  
39 in NRS 293.5055, shall register voters within the county for which  
40 he is appointed. Except as otherwise provided in subsection 1, a  
41 candidate for any office may not be appointed or serve as a field  
42 registrar. A field registrar serves at the pleasure of the county clerk  
43 and shall perform his duties as the county clerk may direct.



1       3. A field registrar shall demand of any person who applies for  
2 registration all information required by the application to register to  
3 vote and shall administer all oaths required by this chapter.

4       4. When a field registrar has in his possession five or more  
5 completed applications to register to vote, he shall forward them to  
6 the county clerk, but in no case may he hold any number of them for  
7 more than 10 days.

8       5. Each field registrar shall forward to the county clerk all  
9 completed applications in his possession immediately after the fifth  
10 Sunday preceding an election. Within 5 days after the fifth Sunday  
11 preceding any general election or general city election, a field  
12 registrar shall return all unused applications in his possession to the  
13 county clerk. If all of the unused applications are not returned to the  
14 county clerk, the field registrar shall account for the unreturned  
15 applications.

16       6. Each field registrar shall submit to the county clerk a list of  
17 the serial numbers of the completed applications to register to vote  
18 and the names of the electors on those applications. The serial  
19 numbers must be listed in numerical order.

20       7. Each field registrar shall post notices sent to him by the  
21 county clerk for posting in accordance with the election laws of this  
22 State.

23       8. A field registrar, employee of a voter registration agency or  
24 person assisting a voter pursuant to subsection 13 of NRS 293.5235  
25 shall not:

26       (a) Delegate any of his duties to another person; or

27       (b) Refuse to register a person on account of that person's  
28 political party affiliation.

29       9. A person shall not hold himself out to be or attempt to  
30 exercise the duties of a field registrar unless he has been so  
31 appointed.

32       10. A county clerk, field registrar, employee of a voter  
33 registration agency or person assisting a voter pursuant to subsection  
34 13 of NRS 293.5235 shall not:

35       (a) Solicit a vote for or against a particular question or  
36 candidate;

37       (b) Speak to a voter on the subject of marking his ballot for or  
38 against a particular question or candidate; or

39       (c) Distribute any petition or other material concerning a  
40 candidate or question which will be on the ballot for the ensuing  
41 election,

42       ↪ while he is registering an elector.

43       11. When the county clerk receives applications to register to  
44 vote from a field registrar, he shall issue a receipt to the field  
45 registrar. The receipt must include:



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(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or

(b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form; ~~and~~

(b) Shall not *knowingly and willfully* alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required ~~and~~; and

*(c) Shall not knowingly and willfully fail to comply with the requirements of subsection 4 or 5 or subsection 3 of NRS 293.504 or NRS 293.5235 with regard to the forwarding of a completed application to register to vote to a county clerk.*

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. *A person who tampers or interferes with, or attempts to tamper or interfere with a mechanical voting system, mechanical*



\* A B 3 2 8 R 1 \*



*voting device or any computer program used to count ballots with the intent of influencing the outcome of an election is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of not more than 10 years.*

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

**Sec. 11.** NRS 293C.220 is hereby amended to read as follows:

293C.220 1. The city clerk shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the city as provided in NRS 293.225, 293.227, 293C.227 to 293C.250, inclusive, and 293C.382, *and section 1 of this act* and shall conclude those duties not later than 31 days before the election. No candidate for nomination or election or his relative within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the city clerk, the chief law enforcement officer of the city shall:

(a) Appoint an officer for each polling place in the city and for the central election board or the absent ballot central counting board; or

(b) Deputize, as an officer for the election, an election board officer for each polling place and for the central election board or the absent ballot central counting board. The deputized officer may not receive any additional compensation for the services he provides as an officer during the election for which he is deputized.

➔ Officers so appointed and deputized shall preserve order during hours of voting and attend the closing of the polls.

2. The city clerk may appoint a trainee for the position of election board officer as set forth in NRS 293C.222.

**Sec. 12.** NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A registered voter ~~[who:~~

~~—(a) Is at least 65 years of age; or~~

~~—(b) Has a physical disability or condition that substantially impairs his ability to go to the polling place;~~

➔] *who is at least 65 years of age or has a physical disability or condition which substantially impairs his ability to go to the polling place* may request an absent ballot for ~~[all]~~ :



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1     (a) *The election immediately following the date on which the*  
2     *city clerk receives the request; or*

3     (b) *All elections held ~~[during the year he requests]~~ after he*  
4     *submits the request for* an absent ballot.

5     3. As used in this section, "sufficient written notice" means a:

6     (a) Written request for an absent ballot that is signed by the  
7     registered voter and returned to the city clerk in person or by mail or  
8     facsimile machine;

9     (b) Form prescribed by the Secretary of State that is completed  
10    and signed by the registered voter and returned to the city clerk in  
11    person or by mail or facsimile machine; or

12    (c) Form provided by the Federal Government.

13    4. A city clerk shall consider a request from a voter who has  
14    given sufficient written notice on a form provided by the Federal  
15    Government as:

16    (a) A request for the primary city election and the general city  
17    election unless otherwise specified in the request; and

18    (b) A request for an absent ballot for the two primary and  
19    general elections immediately following the date on which the city  
20    clerk received the request.

21    5. *If a registered voter who has a physical disability requests*  
22    *an absent ballot pursuant to paragraph (b) of subsection 2, the city*  
23    *clerk may, every year after an absent ballot is issued to the*  
24    *registered voter, require the registered voter to submit a statement*  
25    *confirming that the registered voter continues to have a physical*  
26    *disability or condition which substantially impairs his ability to go*  
27    *to the polling place.*

28    6. *A city clerk shall not issue an absent ballot for future*  
29    *elections to a registered voter who requests an absent ballot*  
30    *pursuant to paragraph (b) of subsection 2 if:*

31    (a) *The registered voter does not submit to the city clerk the*  
32    *statement described in subsection 5 or such statement indicates*  
33    *that the registered voter is no longer physically disabled, if*  
34    *applicable;*

35    (b) *The registered voter applies to vote in person pursuant to*  
36    *NRS 293C.330;*

37    (c) *The registered voter provides written notice to the city clerk*  
38    *that the registered voter no longer wishes to receive an absentee*  
39    *ballot;*

40    (d) *An absent ballot mailed to a registered voter is returned as*  
41    *undeliverable to the city clerk; or*

42    (e) *The voter's registration has been cancelled.*

43    7. It is unlawful for a person fraudulently to request an absent  
44    ballot in the name of another person or to induce or coerce another  
45    person fraudulently to request an absent ballot in the name of



\* A B 3 2 8 R 1 \*

1 another person. A person who violates any provision of this  
2 subsection is guilty of a category E felony and shall be punished as  
3 provided in NRS 193.130.

4 **Sec. 13.** NRS 293C.312 is hereby amended to read as follows:

5 293C.312 1. A registered voter referred to in NRS 293C.310  
6 may, at any time before 5 p.m. on the seventh calendar day  
7 preceding any election, make an application to the city clerk for an  
8 absent voter's ballot ~~[ ]~~ *for that election*. The application must be  
9 made available for public inspection.

10 2. When the voter has identified himself to the satisfaction of  
11 the city clerk, he is entitled to receive the appropriate ballot or  
12 ballots, but only for his own use.

13 3. A city clerk who allows a person to copy information from  
14 an application for an absent ballot is immune from any civil or  
15 criminal liability for any damage caused by the distribution of that  
16 information, unless he knowingly and willingly allows a person who  
17 intends to use the information to further an unlawful act to copy the  
18 information.

19 **Sec. 14.** NRS 293C.318 is hereby amended to read as follows:

20 293C.318 1. A registered voter who, because of a physical  
21 disability, is unable to mark or sign a ballot or use a voting device  
22 without assistance may submit a written statement to the appropriate  
23 city clerk requesting that he receive an absent ballot for each city  
24 election conducted ~~[during the period specified in subsection 3.]~~  
25 *after he submits the request for an absent ballot*.

26 2. A written statement submitted pursuant to subsection 1  
27 must:

28 (a) Include a statement from a physician licensed in this State  
29 certifying that the registered voter is a person with a physical  
30 disability and, because of the physical disability, he is unable to  
31 mark or sign a ballot or use a voting device without assistance;

32 (b) Designate the person who will assist the registered voter in  
33 marking and signing the absent ballot on behalf of the registered  
34 voter; and

35 (c) Include the name, address and signature of the person  
36 designated pursuant to paragraph (b).

37 3. Upon receipt of a written statement submitted by a  
38 registered voter pursuant to subsection 1, the city clerk shall, if the  
39 statement includes the information required pursuant to subsection  
40 2, issue an absent ballot to the registered voter for each city election  
41 that is conducted ~~[during the year immediately succeeding]~~ *after* the  
42 date the written statement is submitted to the city clerk.

43 4. To determine whether a registered voter is entitled to receive  
44 an absent ballot pursuant to this section, the city clerk may, every  
45 year after an absent ballot is issued to a registered voter pursuant to



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1 subsection 3, require the registered voter to submit a statement from  
2 a licensed physician as specified in paragraph (a) of subsection 2. If  
3 a statement from a physician licensed in this State submitted  
4 pursuant to this subsection indicates that the registered voter is no  
5 longer physically disabled, the city clerk shall not issue an absent  
6 ballot to the registered voter pursuant to this section.

7 5. A person designated pursuant to paragraph (b) of subsection  
8 2 may, on behalf of and at the direction of the registered voter, mark  
9 and sign an absent ballot issued to the registered voter pursuant to  
10 the provisions of this section. If the person marks and signs the  
11 ballot, the person shall indicate next to his signature that the ballot  
12 has been marked and signed on behalf of the registered voter.

13 6. The procedure authorized pursuant to this section is subject  
14 to all other provisions of this chapter relating to voting by absent  
15 ballot to the extent that those provisions are not inconsistent with  
16 the provisions of this section.

