
**State Government & Tribal Relations
Committee**

HB 1078

Brief Description: Restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections.

Sponsors: Representatives Simmons, Young, Dolan, Berry, Fitzgibbon, Johnson, J. and Wicks.

Brief Summary of Bill

- Replaces the two-step approach of provisional and permanent restoration of a person's voting rights after a felony conviction with a process where voting rights are automatically restored for a person convicted of a felony when he or she is not serving a sentence of total confinement under the jurisdiction of the Department of Corrections (DOC).
- Removes provisions authorizing the revocation of provisional restoration of voting rights upon failure to pay legal financial obligations.
- Requires the Secretary of State to compare a list of registered voters to a list of persons ineligible to vote by reason of a felony conviction once a month, rather than twice a year.
- Makes conforming changes to the voter registration oath, voter declaration enclosed with a ballot, and statutory eligibility to serve as a juror.

Hearing Date: 1/14/21

Staff: Desiree Omli (786-7105).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Voting Rights.

All persons who are at least 18 years old, a United States citizen, and have lived in the state, county, and precinct for 30 days preceding an election are entitled to vote, unless that person has been convicted of an infamous crime and their civil rights have not been restored. An "infamous crime" includes crimes punishable by death in the state penitentiary or imprisonment in a state or federal correctional facility, which are crimes classified as a felony.

A person who has been convicted of a felony in a state court may have their right to vote provisionally restored if the person is not under the authority of the Department of Corrections (DOC). A person is under the authority of the DOC if the person is:

- serving a sentence of confinement in the custody of the DOC, or
- subject to community custody.

A person's right to vote may then be permanently restored by any of the following methods for each felony conviction:

- a certificate of discharge issued by the sentencing court,
- a court order restoring voting rights,
- a final order of discharge issued by the Indeterminate Sentence Review Board, or
- a certificate of restoration issued by the Governor.

All defendants who are convicted of a felony are required by the court to sign a statement acknowledging that, among other things, the person's right to vote has been lost, his or her voter registration will be canceled, the ways in which the person's right to vote may be restored, and that the person must reregister before voting.

Community Custody.

Community custody is the portion of a persons sentence served in the community subject to conditions imposed by the court and the DOC. Courts must order community custody for persons convicted of certain crimes or in accordance with a sentencing alternative. Community custody conditions may include: living in an approved residence; refraining from contacting certain persons; drug and alcohol treatment; and others. If a person violates the conditions of community custody, the person may be subject to a variety of sanctions. Certain violations may result in the person being returned to confinement for specified periods.

Legal Financial Obligations.

When a person is convicted of a crime, the court may impose legal financial obligations (LFO) as part of the judgment and sentence. Legal financial obligations include: restitution; crime victims' compensation fees; costs associated with the offender's prosecution and sentence; fines; penalties; and assessments. If a person willfully fails to pay LFOs, he or she may be subject to penalties for noncompliance.

A person may have the provisional restoration of their voting rights revoked if a sentencing court determines that a person willfully failed to comply with the terms of his or her order to pay LFOs. If a person fails to make three payments in a 12-month period and the county clerk or

restitution recipient requests, the prosecutor must seek to revoke that person's provisional voting right.

Voter Rolls.

At least twice a year, the Secretary of State (Secretary) must compare the list of registered voters to a list of persons not eligible to vote due to a felony conviction or having their provisional voting rights revoked. If a person is found to not be eligible to vote, the Secretary or the county auditor must send that person a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring their right to vote.

Department of Corrections.

Prior to the termination of its authority over an inmate, the DOC must notify the inmate in writing of the process to provisionally and permanently restore the inmate's voting rights.

Summary of Bill:

Voting Rights.

After a felony conviction in a state court, the right to vote is automatically restored if the person is not serving a sentence of total confinement under the jurisdiction of the DOC. "Total confinement" is 24-hour confinement inside the physical boundaries of a facility or institution operated or used under contract by the state or any other unit of government. Total confinement does not include confinement imposed as a sanction for a community custody violation.

A defendant who is convicted of a felony is required to sign a statement acknowledging the loss of their voting right only if that person is convicted of a felony and sentenced to a term of total confinement under the jurisdiction of the DOC. Conforming changes are made to the content of the statement of acknowledgment.

Legal Financial Obligations.

Provisions authorizing revocation of a person's voting right for reason of failure to pay LFOs are removed.

Voter Rolls.

At least once a month, the Secretary must compare the list of registered voters to a list of persons not eligible to vote due to serving a sentence of total confinement under the jurisdiction of the DOC.

Department of Corrections.

Conforming changes are made to the DOC's notice requirement to inmates. It is also clarified that the DOC must provide the required notice prior to release from, or transfer to partial confinement from, total confinement under the jurisdiction of the DOC.

Other Provisions.

Conforming changes are made to the voter registration oath, voter declaration enclosed with a

ballot, and statutory eligibility to serve as a juror.

Appropriation: None.

Fiscal Note: Requested on January 8, 2021.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.