

AMENDMENTS TO LB 53

(Amendments to Standing Committee amendments, AM0058)

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Section 29-112, Revised Statutes Supplement,
4 2004, is amended to read:

5 29-112. Any person sentenced to be punished for any
6 felony, when the sentence is not reversed or annulled, is
7 incompetent to be ~~an elector or~~ a juror or to hold any office of
8 honor, trust, or profit within this state, unless such person
9 receives from the Board of Pardons of this state a warrant of
10 discharge, in which case such person shall be restored to such
11 civil rights and privileges as enumerated or limited by the Board
12 of Pardons. The warrant of discharge shall not release such person
13 from the costs of conviction unless otherwise ordered by the Board
14 of Pardons.

15 Any person sentenced to be punished for a felony other
16 than a felony under the Election Act, when the sentence is not
17 reversed or annulled, is not qualified to vote until two years
18 after he or she has completed the sentence, including any parole
19 term. The disqualification is automatically removed at such time.

20 Any person sentenced to be punished for a felony under
21 the Election Act, when the sentence is not reversed or annulled, is
22 not qualified to vote unless such person receives from the Board of
23 Pardons of this state a warrant of discharge, in which case such

1 person shall be restored to such civil rights and privileges as
2 enumerated or limited by the Board of Pardons. The warrant of
3 discharge shall not release such person from the costs of
4 conviction unless otherwise ordered by the Board of Pardons.

5 Sec. 2. Section 29-113, Revised Statutes Supplement,
6 2004, is amended to read:

7 29-113. Any person who has been ~~actually imprisoned in~~
8 ~~the penitentiary convicted of a felony under the laws of any other~~
9 ~~state or territory of the United States under sentence for the~~
10 ~~commission of any crime which, by the laws of this state, is~~
11 ~~punishable by imprisonment in a Department of Correctional Services~~
12 ~~adult correctional facility shall be deemed incompetent to be an~~
13 ~~elector or a juror or to hold any office of honor, trust, or profit~~
14 ~~within this state, unless such convict has received a general~~
15 ~~pardon from the Board of Pardons of the state in which he or she~~
16 ~~was imprisoned agreeable to the laws thereof person has been~~
17 restored to civil rights under the laws of the state in which the
18 felony was committed.

19 Any person who has been convicted of a felony under the
20 laws of any other state other than the election laws of another
21 state is not qualified to vote until two years after such person
22 has completed his or her sentence, including any parole term.

23 Any person who has been convicted of a felony under the
24 election laws of any other state is not qualified to vote unless
25 such person has been restored to civil rights under the laws of the
26 state in which the felony was committed.

27 Sec. 3. Section 29-2264, Revised Statutes Supplement,

1 2004, is amended to read:

2 29-2264. (1) Whenever any person is placed on probation
3 by a court and satisfactorily completes the conditions of his or
4 her probation for the entire period or is discharged from probation
5 prior to the termination of the period of probation, the sentencing
6 court shall issue an order releasing the offender from probation.
7 Such order in ~~all~~ felony cases other than felonies under the
8 Election Act shall provide notice that the person's voting rights
9 are ~~not~~ restored ~~upon~~ two years after completion of probation. For
10 felonies under the Election Act, such order shall provide notice
11 that the person's voting rights may be restored through the pardon
12 process. The order shall include information on restoring ~~such~~
13 other civil rights through the pardon process, including
14 application to and hearing by the Board of Pardons.

15 (2) Whenever any person is convicted of a misdemeanor or
16 felony and is placed on probation by the court or is sentenced to a
17 fine only, he or she may, after satisfactory fulfillment of the
18 conditions of probation for the entire period or after discharge
19 from probation prior to the termination of the period of probation
20 and after payment of any fine, petition the sentencing court to set
21 aside the conviction.

22 (3) In determining whether to set aside the conviction,
23 the court shall consider:

24 (a) The behavior of the offender after sentencing;

25 (b) The likelihood that the offender will not engage in
26 further criminal activity; and

27 (c) Any other information the court considers relevant.

1 (4) The court may grant the offender's petition and issue
2 an order setting aside the conviction when in the opinion of the
3 court the order will be in the best interest of the offender and
4 consistent with the public welfare. The order shall:

5 (a) Nullify the conviction; and

6 (b) Remove all civil disabilities and disqualifications
7 imposed as a result of the conviction.

8 (5) The setting aside of a conviction in accordance with
9 the Nebraska Probation Administration Act shall not:

10 (a) Require the reinstatement of any office, employment,
11 or position which was previously held and lost or forfeited as a
12 result of the conviction;

13 (b) Preclude proof of a plea of guilty whenever such plea
14 is relevant to the determination of an issue involving the rights
15 or liabilities of someone other than the offender;

16 (c) Preclude proof of the conviction as evidence of the
17 commission of the misdemeanor or felony whenever the fact of its
18 commission is relevant for the purpose of impeaching the offender
19 as a witness, except that the order setting aside the conviction
20 may be introduced in evidence;

21 (d) Preclude use of the conviction for the purpose of
22 determining sentence on any subsequent conviction of a criminal
23 offense;

24 (e) Preclude the proof of the conviction as evidence of
25 the commission of the misdemeanor or felony in the event an
26 offender is charged with a subsequent offense and the penalty
27 provided by law is increased if the prior conviction is proved;

1 (f) Preclude the proof of the conviction to determine
2 whether an offender is eligible to have a subsequent conviction set
3 aside in accordance with the Nebraska Probation Administration Act;
4 or

5 (g) Preclude use of the conviction as evidence of
6 commission of the misdemeanor or felony for purposes of determining
7 whether an application filed or a license issued under sections
8 71-1901 to 71-1905 or the Child Care Licensing Act or a certificate
9 issued under sections 79-806 to 79-815 should be denied, suspended,
10 or revoked.

11 (6) Except as otherwise provided for the notice in
12 subsection (1) of this section, this section shall be retroactive
13 in application and shall apply to all persons, otherwise eligible
14 in accordance with the provisions of this section, whether
15 convicted prior to, on, or subsequent to June 11, 1993.

16 Sec. 4. Section 32-312, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 32-312. The office personnel of the election
19 commissioner or county clerk or the deputy registrar shall examine
20 all persons who may personally apply to register to vote as to his
21 or her qualifications, and in the presence of the applicant, the
22 information listed in this section shall be entered in the
23 register.

24 CITIZENSHIP--"Are you a citizen of the United States of
25 America?" and boxes to check to indicate whether the applicant is
26 or is not a citizen of the United States.

27 AGE--"Are you at least eighteen years of age or will you

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1 be eighteen years of age on or before the first Tuesday following
2 the first Monday of November of this year?" and boxes to check to
3 indicate whether or not the applicant will be eighteen years of age
4 or older on election day.

5 WARNING--"If you checked 'no' in response to either of
6 these questions, do not complete this form."

7 NAME--the name of the applicant giving the first and last
8 name in full, the middle name in full or the middle initial, and
9 the maiden name of the applicant, if applicable.

10 RESIDENCE--the name and number of the street, avenue, or
11 other location of the dwelling where the applicant resides if there
12 is a number. If the registrant resides in a hotel, apartment,
13 tenement house, or institution, such additional information shall
14 be included as will give the exact location of such registrant's
15 place of residence. If the registrant lives in an incorporated or
16 unincorporated area not identified by the use of roads, road names,
17 or house numbers, the registrant shall state the section, township,
18 and range of his or her residence and the corporate name of the
19 school district as described in section 79-405 in which he or she
20 is located.

21 POSTAL ADDRESS--the address at which the applicant
22 receives mail if different from the residence address.

23 ADDRESS OF LAST REGISTRATION--the name and number of the
24 street, avenue, or other location of the dwelling from which the
25 applicant last registered.

26 TELEPHONE NUMBERS (optional)--the telephone number of the
27 applicant at work and at home. At the request of the applicant, a

1 designation shall be made that the telephone number is an unlisted
2 number, and such designation shall preclude the listing of the
3 applicant's telephone number on any list of voter registrations.

4 DRIVER'S LICENSE NUMBER OR LAST FOUR DIGITS OF SOCIAL
5 SECURITY NUMBER--if the applicant has a Nebraska driver's license,
6 the license number, if the applicant does not have a Nebraska
7 driver's license, the last four digits of the applicant's social
8 security number, and if the applicant does not have a Nebraska
9 driver's license or a social security number, a unique identifying
10 number assigned under this section.

11 DATE OF APPLICATION FOR REGISTRATION--the month, day, and
12 year when applicant presented himself or herself for registration.

13 PLACE OF BIRTH (optional)--show the state, country,
14 kingdom, empire, or dominion where the applicant was born.

15 DATE OF BIRTH--show the date of the applicant's birth.
16 The applicant shall be at least eighteen years of age or attain
17 eighteen years of age on or before the first Tuesday after the
18 first Monday in November to have the right to register and vote in
19 any election in the present calendar year.

20 REGISTRATION TAKEN BY--show the signature of the deputy
21 registrar taking the application, if applicable.

22 PARTY AFFILIATION--show the party affiliation of the
23 applicant as Democrat, Republican, Nonpartisan, or Other

24 (Note: If you wish to vote in both partisan and nonpartisan
25 primary elections for state and local offices, you must indicate a
26 political party affiliation on the registration form. If you
27 register without a political party affiliation (independent), you

1 will receive only the nonpartisan ballots for state and local
2 offices at primary elections. If you register without a political
3 party affiliation, you may vote in partisan primary elections for
4 congressional offices.)

5 Immediately following the spaces for inserting
6 information as provided in this section, the following statement
7 shall be printed:

8 To the best of my knowledge and belief, I declare under
9 penalty of election falsification that:

10 (1) I live in the State of Nebraska at the address
11 provided above;

12 (2) I have not been convicted of a felony, or, if
13 convicted of a felony other than a felony under the Election Act,
14 it has been at least two years since I completed my sentence for
15 the felony, including any parole term, or if convicted of a felony
16 under the Election Act, my civil rights have been restored; and

17 (3) I have not been officially found to be non compos
18 mentis (mentally incompetent).

19 Any registrant who signs this form knowing that any of
20 the information in the form is false shall be guilty of a Class IV
21 felony under section 32-1502 of the statutes of Nebraska. The
22 penalty for a Class IV felony is up to five years imprisonment, a
23 fine of up to ten thousand dollars, or both.

24 APPLICANT'S SIGNATURE--require the applicant to affix his
25 or her signature to the form.

26 If an applicant for voter registration does not have a
27 Nebraska driver's license or a social security number, the

1 Secretary of State shall assign the applicant a number which will
2 serve to identify the applicant for voter registration purposes.
3 When the computerized voter registration list is in effect and the
4 list assigns unique identifying numbers to registrants, the number
5 assigned under this section shall be the unique identifying number
6 assigned under the list.

7 Sec. 5. Section 32-313, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 32-313. ~~(1)~~ (1) (a) No person ~~shall be~~ is qualified to
10 vote or to register to vote who is non compos mentis or who has
11 been convicted of treason ~~or a felony~~ under the laws of the state
12 or of the United States unless restored to civil rights.

13 (b) No person who has been convicted of a felony under
14 the laws of this state or any other state other than a felony under
15 the Election Act or the election laws of any other state is
16 qualified to vote or to register to vote until two years after the
17 sentence is completed, including any parole term. The
18 disqualification is automatically removed at such time.

19 (c) No person who has been convicted of a felony under
20 the Election Act or the election laws of any other state is
21 qualified to vote or to register to vote unless restored to civil
22 rights.

23 (2) The clerk of any court in which a person is convicted
24 of a felony shall prepare an abstract each month of each final
25 judgment served by the clerk convicting an elector of a felony.
26 The clerk shall file the abstract with the election commissioner or
27 county clerk of the elector's county of residence not later than

1 the tenth day of the month following the month in which the
2 abstract is prepared. The clerk of the court shall notify the
3 election commissioner or county clerk in writing if any such
4 conviction is overturned.

5 (3) Upon receiving notification from the United States
6 Attorney of a felony conviction of a Nebraska resident in federal
7 court or of the overturning of any such conviction, the Secretary
8 of State shall forward the notice to the election commissioner or
9 county clerk of the county of such person's residence. The
10 election commissioner or county clerk shall remove the name of such
11 person from the voter registration register upon receipt of notice
12 of conviction.

13 Sec. 6. Section 32-1530, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 32-1530. Any person who votes (1) who is not a resident
16 of this state or registered in the county or who at the time of
17 election is not of the constitutionally prescribed age of a
18 registered voter, (2) who is not a citizen of the United States, or
19 (3) ~~who~~ after being disqualified by law by reason of his or her
20 conviction of a felony, ~~has not been pardoned and restored to all~~
21 ~~the rights of a citizen and prior to the end of the period~~
22 prescribed in subdivision (1)(b) of section 32-313 or prior to
23 restoration of civil rights under subdivision (1)(c) of section
24 32-313, shall be guilty of a Class IV felony.

25 Sec. 7. Section 83-1,118, Revised Statutes Supplement,
26 2004, is amended to read:

27 83-1,118. (1) If, in the opinion of the board, a parolee

1 does not require guidance or supervision, the board may dispense
2 with and terminate such supervision.

3 (2) The board may discharge a parolee from parole at any
4 time if such discharge is compatible with the protection of the
5 public and is in the best interest of the parolee.

6 (3) The board shall discharge a parolee from parole when
7 the time served in the custody of the department and the time
8 served on parole equal the maximum term less good time.

9 (4) The department shall discharge a committed offender
10 from the custody of the department when the time served in the
11 facility equals the maximum term less good time.

12 (5) Upon completion of the lawful requirements of the
13 sentence, the department shall provide the parolee or committed
14 offender with a written notice regarding his or her civil rights.
15 The notice shall inform the parolee or committed offender that
16 voting rights are ~~not~~ restored ~~upon~~ two years after completion of
17 the sentence for felonies other than felonies under the Election
18 Act. For felonies under the Election Act, the notice shall inform
19 the parolee or committed offender that voting rights are restored
20 through the pardon process. The notice shall also include
21 information on restoring ~~such~~ other civil rights through the pardon
22 process, including application to and hearing by the Board of
23 Pardons.

24 (6) The Board of Parole may discharge a parolee from
25 parole when such parolee is under the supervision of another
26 state's correctional institution and such offender has reached the
27 expiration date of his or her Nebraska parole term.

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1 Sec. 8. Original sections 32-312, 32-313, and 32-1530,
2 Reissue Revised Statutes of Nebraska, and sections 29-112, 29-113,
3 29-2264, and 83-1,118, Revised Statutes Supplement, 2004, are
4 repealed.".