

2001 DRAFTING REQUEST

Bill

Received: **02/19/2001**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Stephen Freese (608) 266-7502**

By/Representing: **Bob Conlin**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Alt. Drafters:

Subject: **Elections - miscellaneous
Criminal Law - sentencing
Correctional System - probation
Correctional System - ext superv
Correctional System - parole**

Extra Copies: **rlr
rjm
rpn
jtk
Bob Conlin**

Pre Topic:

No specific pre topic given

Topic:

Notice regarding ineligibility to vote

Instructions:

Require sentencing court to notify persons prohibited from voting under sec. 6.03 (1) (h); same for DOC when person is on parole, probation, or ES; include people currently on parole, probation, or ES

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 02/23/2001	jdye 02/23/2001					
/1			martykr 02/27/2001		lrb_docadmin 02/27/2001	lrb_docadmin 03/13/2001	

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Drafting History:

Table with columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Includes handwritten notes like '1/23 jld', 'PG 2', and '2/27'.

FE Scent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-26277

MGD: n:....

D-Note

Handwritten initials and circled number 1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen

1 AN ACT ...; relating to: notice regarding ineligibility to vote. ✓

Analysis ✓
NS
[scribble]

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

NS 1/1 ✓

2 SECTION 1. Nonstatutory provisions.

3 (1) No later than the first day of the 6th month beginning after publication ✓

4 [revisor inserts date], the department of corrections shall inform each person who is
5 on probation, parole, or extended supervision on that date and who is disqualified
6 from voting under section 6.03 (1) (b) ✓ of the statutes that he or she may not vote in
7 any election until his or her civil rights are restored.

8

(END)

NS 1/7

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2570/1insRM
RJM/JTK/MCD:.....

INSERT ANALYSIS

~~Voting by felons and immigrants~~

Current law requires a court to provide a defendant certain information at sentencing. For example, when a court sentences a person or places a person on probation for a felony, the court must inform the person that he or she is prohibited from possessing a firearm. Under this bill, whenever a court imposes a sentence or places a person on probation for a conviction that disqualifies the person from voting, the court must inform the person of that disqualification. The bill also requires the department of corrections to inform the person of the disqualification ~~when the person is placed on probation or released to parole or extended supervision.~~ ^{to vote}

~~In addition, this bill requires the standard voter registration form to include a notice advising each registering elector of the law with regard to the voting eligibility of felons and requires each registering elector to certify that, to the best of the elector's knowledge, he or she is a qualified elector. The bill also requires every municipality to post a uniform sign on election day at the entrance to each polling place, advising electors of the voting eligibility requirements under the laws of this state, including the voting eligibility requirements applicable to felons and immigrants.~~

~~Under current law, the municipal clerk is required to supervise elections and registration in each applicable municipality. Among other things, the municipal clerk must instruct election officials in their duties. This bill specifies that the municipal clerk must also instruct election officials with regard to the voting eligibility requirements under the laws of this state, including the voting eligibility requirements applicable to felons and immigrants.~~

~~INSERT 3-1~~

1 SECTION 1. 6.33 (1) of the statutes is amended to read:

2 6.33 (1) The municipal clerk shall supply sufficient registration forms as
3 prescribed by the board printed on loose-leaf sheets or cards to obtain from each
4 applicant information as to name, date, residence location, citizenship, age, whether
5 the applicant has resided within the ward or election district for at least 10 days,
6 whether the applicant has lost his or her right to vote, and whether the applicant is
7 currently registered to vote at any other location, and shall provide a space for the
8 applicant's signature. The forms shall also include a space for the identification
9 serial number of any elector who is issued such a number under s. 6.47 (3). The forms
10 shall also include a notice advising each elector of the effect of s. 6.03 (1) (b) and the

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2570/1insMD
MCD:.....

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INSERT 1/1

SECTION 1. 302.117[✓] of the statutes is created to read:

302.117 Notice regarding ineligibility to vote.[✓] When an inmate who is disqualified from voting under s. 6.03 (1) (b)[✓] is released to parole or extended supervision, the department[✓] shall inform the person that he or she may not vote in any election until his or her civil rights are restored.

SECTION 2. 973.033[✓] of the statutes is renumbered 973.176 (1)[✓] and 973.176 (1) (title), as renumbered, is amended to read:

973.176 (1) ^(title) ~~SENTENCING; RESTRICTION ON FIREARM~~ FIREARM POSSESSION.

History: 1989 a. 142.

SECTION 3. 973.034[✓] of the statutes is renumbered 973.176 (3)[✓] and 973.176 (3) (title), as renumbered, is amended to read:

973.176 (3) ^(title) ~~SENTENCING; RESTRICTION ON CHILD~~ CHILD SEX OFFENDER WORKING WITH CHILDREN.

History: 1995 a. 265; 1997 a. 220; 1999 a. 3.

SECTION 4. 973.09 (4m)[✓] of the statutes is created to read:

973.09 (4m) The department shall inform each probationer who is disqualified from voting under s. 6.03 (1) (b)[✓] that he or she may not vote in any election until his or her civil rights are restored.

SECTION 5. 973.176[✓] of the statutes is created to read:

973.176 Notice of restrictions. (2)^{check-Δ} VOTING. Whenever a court imposes a sentence or places a defendant on probation for a conviction that disqualifies the defendant from voting under s. 6.03 (1) (b)[✓], the court shall inform the defendant that he or she may not vote in any election until his or her civil rights are restored.

(end ins 1-1)

(B)CS

Section #

(B)

initial applicability.

auto ref #
MA A

1 NOTIFICATION REGARDING INELIGIBILITY TO VOTE DURING PAROLE OR EXTENDED
2 SUPERVISION. The treatment of section 302.117[✓] of the statutes first applies to persons
3 whom the department of corrections releases to parole or extended supervision on
4 the effective date of this subsection.✓

auto ref #
MA B

5 NOTIFICATION REGARDING INELIGIBILITY TO VOTE DURING PROBATION. The
6 treatment of sections 973.09 (4m)[✓] of the statutes first applies to persons whom the
7 court places on probation on the effective date of this subsection.

auto ref #
MA C

8 NOTIFICATION AT SENTENCING REGARDING INELIGIBILITY TO VOTE. The ~~treatment~~
9 of sections 973.176 of the statutes first ~~apply~~^{apply} to persons whom the court sentences
10 on the effective date of this subsection.✓

(end ins 1-7)

NO # renumbering and amendment of sections 973.033 and 973.034 of the statutes and the creation

mgd : _____ : _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... create → action: → *NS: → effdate
For the text, execute: create → text: → *NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. create → action: → *NS: → effdateE
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of sections 302.117, 302.03, 973.03, and 973.09(4m) of the statutes, takes effect on the first day of the 3rd month beginning after publication

1. In the component bar: For the budget action phrase, execute: .. create → action: → *NS: → 94XX
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 _____ . Effective dates;

(#1) () The treatment of sections of the statutes takes effect on

and Sections 302.117, 302.03, 973.03, and 973.09(4m) of this act, auto ref 1 (from ins 1-7), auto ref B2, auto ref C2, and auto ref A (from ins 1-7)

of the statutes, the renumbering and amendment of sections 973.033 and 973.034 of the statutes, ~~and~~ the creation of section 973.176

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2570/1dn
MCD/JTK/RJM:.....

Read Entire (2) note.
No changes have been
incorporated here.

Jld

Rep. Freese:

Shirley:

plain article section

1. As indicated in our phone conversation, it is unclear ~~which~~ felons are prohibited from voting under current law. The former version of ~~Art. III, § 2~~, of the Wisconsin Constitution prohibited felons from voting, but that provision applied only to persons committing crimes that were felonies when the constitution was enacted in 1848. See, e.g., 41 Op. Atty. Gen. 181, 182 (1952). Moreover, s. 6.03 (1) (b), which contained language comparable to that contained in the former version of ~~Art. III, § 2~~, could not take away voting rights that were granted under the constitution. Therefore, it too only applied to persons committing 1848-era felonies.

section

When the former version of ~~Art. III, § 2~~ was repealed and replaced by the current version in 1986, s. 6.03 (1) (b) was left intact. In addition, the legislative history of the current version of ~~Art. III, § 2~~ suggests that the legislature may not have intended to make any substantive changes in the law regarding voter eligibility. Therefore, s. 6.03 (1) (b) may still be construed to apply only to persons committing 1848-era felonies.

Article

Section section article

2. Under s. 304.078, a person's civil rights (including the right to vote for a person who had been barred from voting under s. 6.03 (1) (b)) are restored when he or she serves his or her term of imprisonment, regardless of whether the person has fulfilled any obligations relating to restitution. In addition, the person's civil rights may be restored through a pardon. Therefore, I did not address the subject of restitution in this draft.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

3. The proposed changes to s. 7.33, stats., expressly permit a local government employer to grant a local government employee time off for service as an election official without loss of pay, fringe benefits, or seniority. Under current law, local government employers are already permitted to do this. However, they must first bargain the matter in good faith with any collective bargaining representative of the affected employees. Current law does not address the issue of whether a local

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2627/1dn
MGD:jld:kmm

February 27, 2001

Rep. Freese:

It is unclear which felons are prohibited from voting under current law. The former version of Article III, Section 2, of the Wisconsin Constitution prohibited felons from voting, but that provision applied only to persons committing crimes that were felonies when the constitution was enacted in 1848. *See, e.g.*, 41 OP. Atty. Gen. 181, 182 (1952). Moreover, s. 6.03 (1) (b), which contained language comparable to that contained in the former version of Article III, Section 2, could not take away voting rights that were granted under the constitution. Therefore, it too only applied to persons committing 1848-era felonies.

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State of Wisconsin

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MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

February 27, 2001

MEMORANDUM

To: Representative Freese

From: Michael Dsida, Legislative Attorney

Re: LRB-2627 Notice regarding ineligibility to vote

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.