

2003 DRAFTING REQUEST

Senate Amendment (SA-AB120)

Received: **09/10/2003**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Michael Ellis (608) 266-0718**

By/Representing: **Ron Sklansky**

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

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous
Correctional System - ext superv
Correctional System - parole
Correctional System - probation
Correctional System - jails
Correctional System - prisons**

Extra Copies: **jtk
rpn**

Submit via email: **YES**

Requester's email: **Sen.Ellis@legis.state.wi.us**

Carbon copy (CC:) to: **ron.sklansky@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Notice regarding resumption of eligibility to vote

Instructions:

See Attached

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 09/12/2003	jdyer 09/15/2003		_____			
		jdyer		_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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			09/15/2003	_____	09/15/2003	09/15/2003	

FE Sent For:

<END>

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/? mdsida

Handwritten notes: 1 9/15 jld, 9-15-03, and other signatures.

FE Sent For:

<END>

9/10

Conv. w/Ron

Unclear whether ~~provision~~ "satisfying his or her sentence" includes payment of restitution extending beyond end of probation, parole or ES

Members want amdt, just be sure

Plc to Ron

Left msg re issue of person serving misdemeanor time in prison before serving ES/parole portion of felony sentence

P/msg from Ron

Don't worry abt it.

Dsida, Michael

From: Sklansky, Ron
Sent: Wednesday, September 10, 2003 3:43 PM
To: Dsida, Michael
Subject: RE: Voting rights notice to felons

Mike:

The original criticism of AB 120 was that if a convicted person must so strenuously be told that his or her right to vote has been impaired, then someone, most likely DOC, should similarly inform the person when the rights have been restored. Rob Richards, from Rep. Freese's office, contends that DOC agents already are required to do this by department policy.

Section 304.078, Stats., says that rights are restored when a person serves out the term or otherwise satisfies the sentence. The problem, according to Kevin Kennedy, is that the statute is unclear as to whether orders such as restitution constitute part of the sentence. If so, a person who never complies with the payment order might never be allowed to vote. He told the committee that the Elections Board has taken the position that voting rights are restored when a person has fully served a term of probation or a term of confinement and any period of parole or extended supervision.

So, I think we need two items codified:

1. A requirement that DOC inform a felon when his or her voting rights are restored. If the department does this already, the requirement will be nothing more than a recognition of the practice.
2. A statement that, at least for the purpose of restoration of voting rights, a felon may vote when he or she has fully served a term of probation or a term of confinement and any period of parole or extended supervision.

The amendment should be drafted for Sen. Ellis. He's wants to exec the bill next Wednesday. If you have any questions or comments about this, let's talk.

Ron

-----Original Message-----

From: Dsida, Michael
Sent: Wednesday, September 10, 2003 2:02 PM
To: Sklansky, Ron
Subject: FW: Voting rights notice to felons

Ron --

I think s. 304.078 already covers this.

Mike

p/c to Ron

1) Jails ?

2) Fine only ?

-----Original Message-----

From: Kuesel, Jeffery
Sent: Wednesday, September 10, 2003 1:03 PM
To: Dsida, Michael
Subject: FW: Voting rights notice to felons

Mike,

I haven't had any contacts on this matter yet. I think the Senate hearing and possible exec is still in progress at this time. But when I am contacted, I will redirect the inquiries to you.

Jeff

-----Original Message-----

From: Richard, Rob
Sent: Wednesday, September 10, 2003 12:04 PM
To: Kuesel, Jeffery; Sklansky, Ron; Kennedy, Kevin
Subject:

Ron and Kevin:

Per Chairman Ellis's request today to amend AB 120 to notify felons when they CAN vote again after their civil liberties have been restored, can you please work with Jeff in drafting an amendment to accomplish this?

Thank you!

Rob Richard
Freese Office



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa0920729

MGD:.....

D-Note

Jld (1)

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT,

TO 2003 ASSEMBLY BILL 120

Mon
5 PM

1 At the locations indicated, amend the bill as follows:

2 1. Page 1, line 3: after "vote" insert ", resumed eligibility to vote, and notice
3 regarding resumed eligibility to vote".

4 2. Page 1, line 4: before that line insert:

5 "SECTION 1d. 6.03 (1) (b) of the statutes is amended to read:

6 6.03 (1) (b) Any person convicted of treason, felony or bribery, unless the
7 person's ^{plain} civil rights are right to vote is restored through a pardon or under s. 304.078
8 (3)."

History: 1973 c. 284; 1977 c. 26, 394; 1979 c. 110; 1991 a. 316.

9 3. Page 1, line 4: delete "SECTION 1" and substitute "SECTION 1h".

10 4. Page 2, line 2: after that line insert:

11 "SECTION 1h. 304.078 (title) of the statutes is amended to read:

(h)

1 **304.078 (title) Civil Restoration of civil rights restored to of convicted**
2 **persons satisfying sentence.** ✓

3 History: 1987 a. 226; 1989 a. 31 s. 1706; Stats. 1989 s. 304.078.

3 **SECTION 1p.** 304.078 of the statutes is renumbered 304.078 (2) and amended ✓
4 to read:

5 304.078 (2) Every Except as provided in sub. (3), every person who is convicted ✓
6 of a crime obtains a restoration of his or her civil rights by serving out his or her term
7 of imprisonment or otherwise satisfying his or her sentence. The certificate of the
8 department or other responsible supervising agency that a convicted person has
9 served his or her sentence or otherwise satisfied the judgment against him or her is
10 evidence of that fact and that the person is restored to his or her civil rights. The
11 department or other agency shall list in the person's certificate rights which have
12 been restored and which have not been restored. Persons who served out their terms
13 of imprisonment or otherwise satisfied their sentences prior to August 14, 1947, are
14 likewise restored to their civil rights from and after September 25, 1959.

15 History: 1987 a. 226; 1989 a. 31 s. 1706; Stats. 1989 s. 304.078. ✓

15 **SECTION 1r.** 304.078 (1) of the statutes is created to read: ✓

16 304.078 (1) In this section: ✓

17 (a) "Imprisonment" includes parole and extended supervision.

18 (b) "Jailer" has the meaning given in s. 302.372 (1) (b). ✓

19 **SECTION 1t.** 304.078 (3) of the statutes is created to read: ✓

20 304.078 (2) If a person is disqualified from voting under s. 6.01 (1) (b), his or
21 her right to vote is restored when he or she completes the term of imprisonment or
22 probation for the crime that led to the disqualification. The department or, if the
23 person is sentenced to a county jail or house of correction, the jailer shall inform the

1 person in writing at the time his or her right to vote is restored under this
2 subsection." ✓

3

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0920/2dn

MGD:.....

1
JLD

The meaning of the phrase "otherwise satisfying his or her sentence" in the first sentence of current s. 304.078 is somewhat unclear. One possible interpretation is that it only covers completing a term of probation or paying a fine or both. But it could also be construed to cover paying restitution, including any amount still owed when the person's supervision by the Department of Corrections ends. I have not been able to find anything in the history of the statute, the history of the restitution statute, or court cases that sheds light on the meaning of that language.

Stats.

(DOC)

The exception created by this amendment may affect how that language is construed. Specifically, it makes it less likely that it would be interpreted to mean completing a term of probation and nothing more. After all, if that were the meaning of the phrase under current law, the exception created by this amendment would be unnecessary.

* The possibility of this occurring, however, may be somewhat remote because, arguably, the civil rights that current s. 304.078 covers are few in number. DOC, for example, interprets this statute to cover only the right to vote and the "obligation for jury duty."

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0920/1dn
MGD;jld:rs

September 15, 2003

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