

**2005 DRAFTING REQUEST**

**Bill**

Received: 03/28/2005

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Parisi (608) 266-5342**

By/Representing:

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

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Correctional System - com crcrns**

Extra Copies: **gmm, jtk**

Submit via email: **YES**

Requester's email: **Rep.Parisi@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Voting rights of felons who are on extended supervision, parole, or probation

---

**Instructions:**

See Attached

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**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 05/16/2005	csicilia 05/18/2005		_____			
/1			pgreensl 05/18/2005	_____	sbasford 05/18/2005	lemery 05/19/2005	

FE Sent For:

<END>

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/?	mdsida 05/16/2005	<del>lrb_editor</del> 1 cjs 5/18 5	5/18 PJ	5/18 PJ			
FE Sent For:				<END>			

## Dsida, Michael

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**From:** Parisi, Joe  
**Sent:** Thursday, May 12, 2005 9:39 AM  
**To:** Dsida, Michael  
**Subject:** RE: Voting rights of felons

Let's require it. Thanks.

---

**From:** Dsida, Michael  
**Sent:** Wednesday, May 11, 2005 4:55 PM  
**To:** Parisi, Joe  
**Subject:** RE: Voting rights of felons

That sounds fine. But back to your previous comment -- do you want to **require** DOC to provide that information when the person is released? Or should the bill be silent on that issue also? (I don't know if there is any information that DOC is required to convey (by statute, anyway) to a person when he or she is released.)

Sorry for all the questions. This may be the last one.

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

**From:** Parisi, Joe  
**Sent:** Wednesday, May 11, 2005 3:29 PM  
**To:** Dsida, Michael  
**Subject:** RE: Voting rights of felons

*other than  
302.117*

Let's leave it silent on that part. I'd like to leave it open to suggestions and ideas. Thanks.

---

**From:** Dsida, Michael  
**Sent:** Wednesday, May 11, 2005 3:13 PM  
**To:** Parisi, Joe  
**Subject:** RE: Voting rights of felons

I was more concerned about people who are already on probation, parole, or ES when the bill takes effect. Should their probation, parole, or ES agent be required to tell them that they can now vote?

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

**From:** Parisi, Joe  
**Sent:** Wednesday, May 11, 2005 3:02 PM  
**To:** Dsida, Michael  
**Subject:** RE: Voting rights of felons

Could they just be given the information in a generic form upon release - maybe along with other information they are already given so that it won't be an extra cost? Yes, there will be local elections in the spring. Thanks.

---

**From:** Dsida, Michael  
**Sent:** Tuesday, May 10, 2005 2:58 PM  
**To:** Parisi, Joe  
**Subject:** RE: Voting rights of felons

I assume that you would want the bill to become effective immediately. But do you also want to require DOC to notify people who are currently on probation, parole, or extended supervision of their eligibility to vote? If so, do you want a deadline for DOC to do so? (Are there any elections next spring?)

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

**From:** Parisi, Joe  
**Sent:** Monday, May 02, 2005 11:02 AM  
**To:** Dsida, Michael  
**Cc:** Whitmore, Lori  
**Subject:** RE: Voting rights of felons

Hello Mike:

Thank you. Let's go with simply restoring the right to vote -rather than all civil rights - upon release as mentioned in paragraph two below. Regarding your second question, no, it would not be my intent that a convicted felon awaiting sentencing be allowed to vote. I would also say no to a person who is out pending

appeal.  
Thank you very much for your assistance.  
Sincerely,  
Joe

---

**From:** Dsida, Michael  
**Sent:** Thursday, April 28, 2005 2:44 PM  
**To:** Parisi, Joe  
**Subject:** Voting rights of felons

Rep. Parisi-

I apologize for the delay in following up on this. I had been waiting for a response from you to my email from last month, but today I went back to look at what I had sent and realized that there was nothing there that clearly necessitated a response.

In any event, after looking at this issue again, I realized that there may be a way to avoid the problem posed in the first paragraph of my email. The bill can provide the person the right to vote upon release, but without restoring his or her civil rights. Then, if the person is returned to prison for a violation of parole or extended supervision, the right to vote is revoked too.

There may still be constitutional challenges to revoking a person's right to vote under those circumstances. First, it could be argued that restoring a person's right to vote is the same as restoring his or her civil rights. And once a felon's civil rights have been restored, the legislature loses the power it has under Art. III, section 2 of the constitution to prohibit that felon from voting. The state, however, would have a reasonable argument in response -- namely, that restoration of the right to vote does not restore all of a person's civil rights (such as the right to serve on a jury). Until all of those rights are restored, Art. III, section 2 still applies. Another possible challenge would be that Art. III, section 2 of the constitution does not allow the legislature to pick and choose which felons whose civil rights have not been restored may vote. I haven't done any research regarding that argument, but I don't think that it would get very far either. (There is even an argument to be made that, under current law, not all felons are barred from voting -- notwithstanding s. 6.03 (1) (b). But that's another story.)

That leaves the second issue. Should a convicted felon be allowed to vote while awaiting sentencing if he or she is out on bail during that time? If so, should felons who are confined pending sentencing also be eligible to vote? The same questions also apply to a felon who is (or is not) released on bail pending appeal.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@legis.state.wi.us

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

**From:** Dsida, Michael  
**Sent:** Monday, March 28, 2005 3:47 PM  
**To:** Parisi, Joe  
**Subject:** Voting rights of felons

Rep. Parisi-

I just realized that the Constitution may make this even more complicated. Under Art. III, section 2, the legislature may enact laws "excluding from the right of suffrage persons convicted of a felony, unless restored to civil rights." I'm not sure that this gives the legislature the authority to revoke a person's right to vote once that right has been restored. Perhaps the best thing for me to do is to see how other states handle this situation?

Also, you mentioned people awaiting sentencing. Some of them will end up being imprisoned; others will ultimately be put on probation. But given the issue that I mentioned above, it may not be possible to allow them to vote pending sentencing if they might eventually end up being imprisoned.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@legis.state.wi.us



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-25757-0

MGD/.....

gjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓  
X-rob ✓

soon

Gen cat.

1 AN ACT...; relating to: restoring the right to vote to a person barred from voting  
2 as a result of a felony conviction.

**Analysis by the Legislative Reference Bureau**

Under current law, when a person is barred from voting as the result of a felony conviction (a "disqualifying offense"), the person's right to vote can be restored through a pardon. Otherwise, it is restored upon completion of the sentence — including extended supervision or parole — or the term of probation imposed on the person who committed the offense.

em-dash

em-dash

Under this bill, a person loses his or her right to vote based on a disqualifying offense only while he or she is incarcerated for that offense. If the person is released to extended supervision or parole, he or she can resume voting. In addition, a person convicted of such an offense retains retains the right to vote if he or she is placed on probation. But if a person who committed a disqualifying offense is returned to prison after the revocation of extended supervision or parole or is sent to prison or a jail or house of correction after the revocation of probation, the person loses the right to vote until he or she is released.

✓

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

3 SECTION 1. 6.03 (1) (b) of the statutes is renumbered 6.03 (1) (b) (intro.) and  
4 amended to read:

X

SECTION 1

(intro.)

6.03 (1) (b) Any person convicted of treason, felony, or bribery, unless the person's right to vote is restored through a pardon or under s. 304.078 (3), if one of the following applies:

History: 1973 c. 284; 1977 c. 26, 394; 1979 c. 110; 1991 a. 316; 2003 a. 121.

SECTION 2. 6.03 (1) (b) 1. of the statutes is created to read:

6.03 (1) (b) 1. The person is awaiting sentencing for the offense.

SECTION 3. 6.03 (1) (b) 2. of the statutes is created to read:

6.03 (1) (b) 2. The person has been sentenced to a term of imprisonment and the sentence has not yet commenced. This subdivision does not apply if the person's sentence has been stayed under s. 973.09 (1) (a).

SECTION 4. 6.03 (1) (b) 3. of the statutes is created to read:

6.03 (1) (b) 3. The person is incarcerated for the offense but is not on probation, parole, or extended supervision.

SECTION 5. 302.117 of the statutes is repealed.

SECTION 6. 304.078 (1) of the statutes is repealed.

SECTION 7. 304.078 (2) of the statutes is amended to read:

304.078 (2) Except as provided in sub. (3), every A person who is convicted of a crime obtains a restoration of his or her civil rights, other than the right to vote, by serving out his or her term of imprisonment or otherwise satisfying his or her sentence. The certificate of the department or other responsible supervising agency that a convicted person has served his or her sentence or otherwise satisfied the judgment against him or her is evidence of that fact and that the person is restored to his or her civil rights. The department or other agency shall list in the person's certificate rights which have been restored and which have not been restored.

Persons who served out their terms of imprisonment or otherwise satisfied their

any  
who has not been pardoned for the offense

Section #. 6.03 (1) (b) 4. The person has been pardoned for the offense.

1 sentences prior to August 14, 1947, are likewise restored to their civil rights from and  
2 after September 25, 1959. ✓

3 History: 1987 a. 226; 1989 a. 31 s. 1706; Stats. 1989 s. 304.078; 2003 a. 121.

**SECTION 8.** 304.078 (3) of the statutes is amended to read:

4 304.078 (3) If a person is has been disqualified from voting under s. 6.03 (1) (b)

5 3., his or her right to vote is restored when he or she completes the term of  
6 imprisonment or probation for the crime that led to the disqualification. ~~The~~ the  
7 department or, if the person is sentenced to a county jail or house of correction, the  
8 jailer, as defined in s. 302.372 (1) (b), shall inform the person in writing at the time,  
9 when he or she is released from the prison, jail, or house of correction, that his or her  
10 right to vote is restored under this subsection. ✓

11 History: 1987 a. 226; 1989 a. 31 s. 1706; Stats. 1989 s. 304.078; 2003 a. 121.

**SECTION 9.** 973.09 (4m) of the statutes is repealed. X

12 **SECTION 10.** 973.176 (2) of the statutes is amended to read:

13 973.176 (2) VOTING. Whenever a court imposes a sentence or places a defendant  
14 on probation for a conviction that disqualifies the defendant from voting under s. 6.03  
15 (1) (b), the court shall inform the defendant that he or she may not vote in any election  
16 until his or her civil rights are restored released from the prison, jail, or house of  
17 correction where the sentence will be served.

18 History: 2003 a. 121 ss. 2, 3, 5.

(END)



## Emery, Lynn

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**From:** Emery, Lynn  
**Sent:** Thursday, May 19, 2005 2:10 PM  
**To:** Koloen, Jan  
**Subject:** LRB 05-2575/1 (attached as requested)



05-2575/1

Lynn Emery  
Program Assistant  
Legislative Reference Bureau  
608-266-3561  
[lynn.emery@legis.state.wi.us](mailto:lynn.emery@legis.state.wi.us)

**Barman, Mike**

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**From:** Koloen, Jan  
**Sent:** Thursday, May 19, 2005 2:17 PM  
**To:** LRB.Legal  
**Subject:** Bill Jackets for 2 bills

Rep. Parisi would like the following two bills jacketed:

LRB 2584/1  
LRB 2575/1

Thanks for your help.

Jan Koloen  
Office of Rep. Joe Parisi