

# STATE OF NEW YORK

4448--A

2021-2022 Regular Sessions

## IN ASSEMBLY

February 4, 2021

Introduced by M. of A. O'DONNELL, WALKER, WEPRIN, CARROLL, JEAN-PIERRE, QUART, GOTTFRIED, BARRON, L. ROSENTHAL, SIMON, DINOWITZ, DE LA ROSA, ABINANTI, SEAWRIGHT, ROZIC, PERRY, NIOU, EPSTEIN, CRUZ, FERNANDEZ, BICHOTTE HERMELYN, ANDERSON, KELLES, GALLAGHER -- Multi-Sponsored by -- M. of A. HEVESI, MAGNARELLI, PAULIN, PRETLOW, THIELE -- read once and referred to the Committee on Election Law -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, the criminal procedure law, the executive law, and the correction law, in relation to voting by formerly incarcerated individuals convicted of a felony; and to repeal certain provisions of the election law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 5-106 of the election law, as  
2 amended by chapter 373 of the laws of 1978, is amended to read as  
3 follows:

4 2. No person who has been convicted of a felony and sentenced to a  
5 period of imprisonment for such felony pursuant to the laws of this  
6 state, shall have the right to register for or vote at any election  
7 [~~unless he shall have been pardoned or restored to the rights of citi-~~  
8 ~~zenship by the governor, or his maximum sentence of imprisonment has~~  
9 ~~expired, or he has been discharged from parole. The governor, however,~~  
10 ~~may attach as a condition to any such pardon a provision that any such~~  
11 ~~person shall not have the right of suffrage until it shall have been~~  
12 ~~separately restored to him] while he or she is incarcerated for such  
13 felony.~~

14 § 2. Subdivision 3 of section 5-106 of the election law is amended to  
15 read as follows:

16 3. No person who has been convicted in a federal court, of a felony,  
17 or a crime or offense which would constitute a felony under the laws of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 this state, and sentenced to a period of imprisonment for such felony,  
2 shall have the right to register for or vote at any election [~~unless he~~  
3 ~~shall have been pardoned or restored to the rights of citizenship by the~~  
4 ~~president of the United States, or his maximum sentence of imprisonment~~  
5 ~~has expired, or he has been discharged from parole~~] while he or she is  
6 incarcerated for such felony.

7 § 3. Subdivision 4 of section 5-106 of the election law is amended to  
8 read as follows:

9 4. No person who has been convicted in another state for a crime or  
10 offense which would constitute a felony under the laws of this state and  
11 sentenced to a period of imprisonment for such felony, shall have the  
12 right to register for or vote at any election in this state [~~unless he~~  
13 ~~shall have been pardoned or restored to the rights of citizenship by the~~  
14 ~~governor or other appropriate authority of such other state, or his~~  
15 ~~maximum sentence has expired, or he has been discharged from parole~~]  
16 while he or she is incarcerated for such felony.

17 § 4. Subdivision 5 of section 8-504 of the election law is REPEALED  
18 and subdivisions 6, 7, and 8, subdivisions 7 and 8 as renumbered by  
19 chapter 373 of the laws of 1978, are renumbered subdivisions 5, 6, and  
20 7.

21 § 5. Section 220.50 of the criminal procedure law is amended by adding  
22 a new subdivision 8 to read as follows:

23 8. Prior to accepting a defendant's plea of guilty to a count or  
24 counts of an indictment or a superior court information charging a felo-  
25 ny offense, the court must advise the defendant on the record that  
26 conviction will result in loss of the right to vote while the defendant  
27 is serving a felony sentence in a correctional facility and that the  
28 right to vote will be restored upon the defendant's release.

29 § 6. Subparagraph (i) of paragraph (a) of subdivision 2 of section  
30 259-i of the executive law, as amended by section 38-f-1 of subpart A of  
31 part C of chapter 62 of the laws of 2011, is amended to read as follows:

32 (i) Except as provided in subparagraph (ii) of this paragraph, at  
33 least one month prior to the date on which an inmate may be paroled  
34 pursuant to subdivision one of section 70.40 of the penal law, a member  
35 or members as determined by the rules of the board shall personally  
36 interview such inmate and determine whether he or she should be paroled  
37 in accordance with the guidelines adopted pursuant to subdivision four  
38 of section two hundred fifty-nine-c of this article. If parole is not  
39 granted upon such review, the inmate shall be informed in writing within  
40 two weeks of such appearance of the factors and reasons for such denial  
41 of parole. Such reasons shall be given in detail and not in conclusory  
42 terms. The board shall specify a date not more than twenty-four months  
43 from such determination for reconsideration, and the procedures to be  
44 followed upon reconsideration shall be the same. If the inmate is  
45 released, he or she shall be given a copy of the conditions of parole.  
46 Such conditions shall where appropriate, include a requirement that the  
47 parolee comply with any restitution order, mandatory surcharge, sex  
48 offender registration fee and DNA databank fee previously imposed by a  
49 court of competent jurisdiction that applies to the parolee. The condi-  
50 tions shall indicate which restitution collection agency established  
51 under subdivision eight of section 420.10 of the criminal procedure law,  
52 shall be responsible for collection of restitution, mandatory surcharge,  
53 sex offender registration fees and DNA databank fees as provided for in  
54 section 60.35 of the penal law and section eighteen hundred nine of the  
55 vehicle and traffic law. If the inmate is released, he or she shall

1 also be notified in writing that his or her voting rights will be  
2 restored upon release.

3 § 7. Paragraph (a) of subdivision 2 of section 259-i of the executive  
4 law, as amended by section 38-f-2 of subpart A of part C of chapter 62  
5 of the laws of 2011, is amended to read as follows:

6 (a) At least one month prior to the expiration of the minimum period  
7 or periods of imprisonment fixed by the court or board, a member or  
8 members as determined by the rules of the board shall personally inter-  
9 view an inmate serving an indeterminate sentence and determine whether  
10 he or she should be paroled at the expiration of the minimum period or  
11 periods in accordance with the procedures adopted pursuant to subdivi-  
12 sion four of section two hundred fifty-nine-c. If parole is not granted  
13 upon such review, the inmate shall be informed in writing within two  
14 weeks of such appearance of the factors and reasons for such denial of  
15 parole. Such reasons shall be given in detail and not in conclusory  
16 terms. The board shall specify a date not more than twenty-four months  
17 from such determination for reconsideration, and the procedures to be  
18 followed upon reconsideration shall be the same. If the inmate is  
19 released, he or she shall be given a copy of the conditions of parole.  
20 Such conditions shall where appropriate, include a requirement that the  
21 parolee comply with any restitution order and mandatory surcharge previ-  
22 ously imposed by a court of competent jurisdiction that applies to the  
23 parolee. The conditions shall indicate which restitution collection  
24 agency established under subdivision eight of section 420.10 of the  
25 criminal procedure law, shall be responsible for collection of restitu-  
26 tion and mandatory surcharge as provided for in section 60.35 of the  
27 penal law and section eighteen hundred nine of the vehicle and traffic  
28 law. If the inmate is released, he or she shall also be notified in  
29 writing that his or her voting rights will be restored upon release.

30 § 8. Subparagraph (xi) of paragraph (f) of subdivision 3 of section  
31 259-i of the executive law, as amended by section 11 of part E of chap-  
32 ter 62 of the laws of 2003, is amended to read as follows:

33 (xi) If the presiding officer sustains any violations, he or she must  
34 prepare a written statement, to be made available to the alleged viola-  
35 tor and his or her counsel, indicating the evidence relied upon and the  
36 reasons for revoking presumptive release, parole, conditional release or  
37 post-release supervision, and for the disposition made. The presiding  
38 officer shall also advise the alleged violator in a written statement  
39 that revocation will result in loss of the right to vote while he or she  
40 is serving the remainder of his or her felony sentence in a correctional  
41 facility and that the right to vote will be restored upon his or her  
42 release.

43 § 9. Section 75 of the correction law, as amended by section 18 of  
44 subpart A of part C of chapter 62 of the laws of 2011, is amended to  
45 read as follows:

46 § 75. Notice of voting rights. [~~Upon~~] Prior to the [discharge] release  
47 from a correctional facility of any person [whose maximum sentence of  
48 imprisonment has expired or upon a person's discharge from community  
49 supervision,] the department shall notify such person [~~of his or her~~  
50 ~~right to vote~~] verbally and in writing, that his or her voting rights  
51 will be restored upon release and provide such person with a form of  
52 application for voter registration [~~together with~~] and a declination  
53 form, offer such person assistance in filling out the appropriate form,  
54 and provide such person written information distributed by the board of  
55 elections on the importance and the mechanics of voting. Upon release,  
56 such person may choose to either submit his or her completed application

1 to the state board or county board where such person resides or have the  
2 department transmit it on his or her behalf. Where such person chooses  
3 to have the department transmit the application, the department shall  
4 transmit the completed application upon such person's release to the  
5 state board or county board where such person resides.

6 § 10. The correction law is amended by adding a new section 510 to  
7 read as follows:

8 § 510. Voting upon release. Prior to the release from a local correc-  
9 tional facility of any person convicted of a felony the chief adminis-  
10 trative officer shall notify such person verbally and in writing that  
11 his or her voting rights will be restored upon release and provide such  
12 person with a form of application for voter registration and a declina-  
13 tion form, offer such person assistance in filling out the appropriate  
14 form, and provide such person written information distributed by the  
15 board of elections on the importance and the mechanics of voting. Upon  
16 release, such person may choose to either submit his or her completed  
17 application to the state board or county board where such person resides  
18 or have the department transmit it on his or her behalf. Where such  
19 person chooses to have the department transmit the application, the  
20 chief administrative officer shall transmit the completed application  
21 upon such person's release to the state board or county board where such  
22 person resides.

23 § 11. The correction law is amended by adding a new section 209 to  
24 read as follows:

25 § 209. Notice of voting rights. The department shall notify each  
26 person serving a period of community supervision verbally and in writing  
27 of his or her right to vote and provide such person with a form of  
28 application for voter registration and a declination form, offer such  
29 person assistance in filling out the appropriate form, and provide such  
30 person written information distributed by the board of elections on the  
31 importance and the mechanics of voting. Such person may choose to either  
32 submit his or her completed application to the state board or county  
33 board where such person resides or have the department transmit it on  
34 his or her behalf. Where such person chooses to have the department  
35 transmit the application, the department shall transmit the completed  
36 application to the state board or county board where such person  
37 resides.

38 § 12. Section 3-102 of the election law is amended by adding a new  
39 subdivision 16-b to read as follows:

40 16-b. Develop and implement a program to educate attorneys, judges,  
41 election officials, corrections officials, including parole and  
42 probation officers, and members of the public regarding the requirements  
43 of the chapter of the laws of two thousand twenty-one which added this  
44 subdivision.

45 § 13. This act shall take effect immediately, provided, however, that  
46 sections five, six, eight, nine, ten, eleven and twelve of this act  
47 shall take effect on the one hundred twentieth day after it shall have  
48 become a law; provided further, however, that the amendments to para-  
49 graph (a) of subdivision 2 of section 259-i of the executive law made by  
50 section six of this act shall be subject to the expiration and reversion  
51 of such paragraph pursuant to subdivision d of section 74 of chapter 3  
52 of the laws of 1995, as amended, when upon such date the provisions of  
53 section seven of this act shall take effect.