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:

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

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

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

3. No person who has been convicted in a federal court, of a felony, 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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this state, **and sentenced to a period of imprisonment for such felony,** shall have the right to register for or vote at any election [~~unless he shall have been pardoned or restored to the rights of citizenship by the president of the United States, or his maximum sentence of imprisonment has expired, or he has been discharged from parole~~] **while he or she is incarcerated for such felony**.

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

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

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 Subdivision 5 of section 8-504 of the election law is REPEALED and subdivisions 6, 7, and 8, subdivisions 7 and 8 as renumbered by chapter 373 of the laws of 1978, are renumbered subdivisions 5, 6, and 7.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 510. Voting upon release. Prior to the release from a local correctional facility of any person convicted of a felony the chief administrative officer shall notify such person verbally and in writing that his or her voting rights will be restored upon release and provide such person with a form of application for voter registration and a declination form, offer such person assistance in filling out the appropriate form, and provide such person written information distributed by the board of elections on the importance and the mechanics of voting. Upon release, such person may choose to either submit his or her completed application to the state board or county board where such person resides or have the department transmit it on his or her behalf. Where such person chooses to have the department transmit the application, the chief administrative officer shall transmit the completed application upon such person's release to the state board or county board where such person resides.

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

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

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

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

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