

2019 Regular Session

HOUSE BILL NO. 402

BY REPRESENTATIVE SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

VOTING/REGISTRATION: Provides relative to registration and voting by a person convicted of a felony

1 AN ACT

2 To amend and reenact R.S. 18:102(A)(1)(b), 171(A) and (C)(1) and (2), 171.1(A)(1),  
3 176(A)(1) and (2), and 177(A)(1) and to repeal R.S. 18:177(A)(2), relative to  
4 registration and voting; to provide relative to registration and voting by a person  
5 convicted of a felony; to provide relative to suspension of registration and voting  
6 rights of such a person; to provide relative to procedures and requirements for voter  
7 registration and voting; to provide relative to reports to election officials concerning  
8 such persons; to provide relative to the duties of registrars of voters and officials in  
9 the Department of State and the Department of Public Safety and Corrections relative  
10 to such reports; to provide for the information required to be reported; to provide  
11 relative to reinstatement of voter registration; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 18:102(A)(1)(b), 171(A) and (C)(1) and (2), 171.1(A)(1), 176(A)(1)  
14 and (2), and 177(A)(1) are hereby amended and reenacted to read as follows:

15 §102. Ineligible persons

16 A. No person shall be permitted to register or vote who is:

17 (1)

18 \* \* \*

19 (b) Except as provided in Subparagraph (c) of this Paragraph, a person who  
20 is under an order of imprisonment for conviction of a felony and who has not been

1 incarcerated pursuant to the order within the last five years shall ~~not be ineligible~~ be  
 2 eligible to register or vote ~~based on the order if the person submits~~ if documentation  
 3 has been provided to the registrar of voters from the appropriate correction official  
 4 showing that the person has not been incarcerated pursuant to the order within the  
 5 last five years. For purposes of this Chapter, "incarcerated" means actual  
 6 confinement in a prison or jail, including confinement pursuant to revocation of  
 7 probation or parole; "incarcerated" shall not include confinement while awaiting  
 8 sentencing or revocation, or confinement pursuant to a violation of a condition of  
 9 probation or parole that does not result in revocation.

\* \* \*

§171. Report of convictions of felony

11 A. The clerk of a court having jurisdiction over a criminal proceeding shall  
 12 record in the minute book or digital facsimile in his office each conviction of a  
 13 felony for which there is an order of ~~imprisonment~~ incarceration, and the name,  
 14 aliases, date of birth, sex, and address of the person subject to the conviction. This  
 15 recordation shall be made immediately after the judgment is signed.

\* \* \*

18 C.(1) The secretary of the Department of Public Safety and Corrections shall  
 19 send to the Department of State a report, certified as correct over his signature or the  
 20 signature of his authorized representative, containing the name, date of birth, sex,  
 21 and address as such information exists in the database of any person who has a  
 22 felony conviction, who is currently ineligible to register or vote pursuant to R.S.  
 23 18:102(A)(1), and who is currently under the custody or supervision of the  
 24 Department of Public Safety and Corrections.

25 (2) The secretary of the Department of Public Safety and Corrections shall  
 26 send to the Department of State supplemental reports, certified as correct over his  
 27 signature or the signature of his authorized representative, containing the name, date  
 28 of birth, sex, and address as such information exists in the database of any person  
 29 who has a felony conviction, who is currently ineligible to register or vote pursuant

1        to R.S. 18:102(A)(1), who is currently under the custody or supervision of the  
 2        Department of Public Safety and Corrections, and whose name was not on the report  
 3        sent pursuant to Paragraph (1) of this Subsection or on any subsequent supplemental  
 4        report. The secretary shall also indicate in the supplemental reports each person who  
 5        has a felony conviction and who has been released from the custody or supervision  
 6        of the Department of Public Safety and Corrections and whether the individual has  
 7        been granted or is eligible to be granted a first offender pardon. The supplemental  
 8        reports shall also indicate each person under the custody or supervision of the  
 9        Department of Public Safety and Corrections who is eligible to register or vote  
 10       pursuant to R.S. 18:102(A)(1)(b) and who is not ineligible pursuant to R.S.  
 11       18:102(A)(1)(c). Such supplemental reports shall be sent to the Department of State  
 12       on no less than a quarterly basis. Upon receipt of any supplemental report, the  
 13       Department of State shall confirm that the information therein has been entered into  
 14       the department's databases and provide for correction, if necessary.

\* \* \*

16       §171.1. Conviction of felony in federal court; notification

17                A.(1) Each United States attorney shall give written notice to the secretary  
 18       of state of any felony conviction of a person in a district court of the United States  
 19       for which there is an order of imprisonment ~~in a district court of the United States~~  
 20       ~~to the secretary of state~~ and for which the person is incarcerated.

\* \* \*

22       §176. Suspension and cancellation of registration and challenge of unlawful  
 23       registration on the basis of reports

24                A.(1) The registrar shall send a notice to each person who is listed on a  
 25       report received pursuant to R.S. 18:171 or 171.1 and who the registrar believes is  
 26       ineligible to register or vote pursuant to R.S. 18:102(A)(1) and to any other person  
 27       the registrar has reason to believe has been convicted of a felony and is ~~under an~~  
 28       ~~order of imprisonment~~ ineligible to register or vote pursuant to R.S. 18:102(A)(1).

1 The notice shall be mailed first class, postage prepaid, to the address on file at the  
2 registrar's office.

3 (2) The notice shall state that the registrar has information that the registrant  
4 has been convicted of a felony and ~~is under an order of imprisonment~~ sentenced to  
5 incarceration and shall inform the person that he must appear in person at the office  
6 of the registrar of voters within twenty-one days after the date on which the notice  
7 was mailed to show cause why his registration should not be suspended.

8 \* \* \*

9 §177. Reinstatement of registration after suspension

10 A.(1) The registration of a person whose registration has been suspended by  
11 the registrar of voters pursuant to R.S. 18:176(A) shall be reinstated when the ~~person~~  
12 ~~appears in the office of the registrar and provides~~ registrar receives documentation  
13 from the appropriate correction official showing that such person is no longer under  
14 an order of imprisonment or, if the person is under such an order, that the person has  
15 not been incarcerated pursuant to the order within the last five years and the person  
16 is not under an order of imprisonment related to a felony conviction pursuant to  
17 election fraud or any other election offense pursuant to R.S. 18:1461.2.

18 \* \* \*

19 Section 2. R.S. 18:177(A)(2) is hereby repealed in its entirety.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 402 Original

2019 Regular Session

Smith

**Abstract:** Provides relative to registration and voting by a person convicted of a felony.

Present constitution (Const. Art. I, §10) provides that every citizen of the state, upon reaching 18 years of age, shall have the right to register and vote, except that this right may be suspended while a person is interdicted and judicially declared mentally incompetent or is under an order of imprisonment for conviction of a felony.

Present law (R.S. 18:102–La. Election Code) prohibits a person who is under an order of imprisonment for conviction of a felony from registering to vote. Present law (R.S. 18:2(8)) provides that this prohibition applies during a sentence of confinement, whether or not

suspended, whether or not the subject of the order has been placed on probation, with or without supervision, and whether or not the subject of the order has been paroled.

Present law provides an exception to allow a person who is under an order of imprisonment for conviction of a felony to register and vote if the person has not been incarcerated pursuant to the order within the last five years. However, provides that a person may not register or vote if he has been convicted of a felony offense of election fraud or any other election offense pursuant to present law (R.S. 18:1461.2) and is under an order of imprisonment.

Proposed law retains present law.

Present law additionally provides that in order to be eligible to register or vote, a person who is under an order of imprisonment for conviction of a felony must submit documentation to the registrar of voters from the appropriate correction official showing that the person has not been incarcerated pursuant to the order within the last five years.

Proposed law provides instead that such a person is eligible if such documentation has been provided to the registrar. Additionally provides that "incarcerated" means actual confinement in a prison or jail, including confinement pursuant to revocation of probation or parole and provides that "incarcerated" does not include confinement while awaiting sentencing or revocation, or confinement pursuant to a violation of a condition of probation or parole that does not result in revocation. Otherwise retains present law.

Present law (R.S. 18:171) requires the clerk of a court having jurisdiction over a criminal proceeding to record in the minute book in his office certain convictions of a felony and the name, aliases, date of birth, sex, and address of the person subject to the conviction. Requires this recordation to be made immediately after the judgment is signed.

Proposed law retains present law.

Present law provides that the required information must be recorded for each conviction of a felony for which there is an order of imprisonment.

Proposed law provides that the required information must be recorded for each conviction of a felony for which there is an order of incarceration, instead of imprisonment. Additionally provides that the clerk may record the information in a digital facsimile of the minute book.

Present law requires the secretary of the Dept. of Public Safety and Corrections (DPSC) to send to the Dept. of State a report containing the name, date of birth, sex, and address for certain persons. Requires DPSC to supplement this report on no less than a quarterly basis. Requires the Dept. of State to confirm that the information has been entered into the department's databases and provide for correction if necessary.

Proposed law retains prior law.

Present law requires the reports from DPSC to contain the specified information for each person who has a felony conviction and who is under the custody or supervision of DPSC.

Proposed law adds the additional requirement that the person be ineligible to register or vote pursuant to present law (R.S. 18:102(A)(1)) in order to be included a the report.

Present law additionally requires the secretary of DPSC to indicate in the supplemental reports each person who has a felony conviction and who has been released from the custody or supervision of DPSC and whether the individual has been granted or is eligible to be granted a first offender pardon.

Proposed law retains present law. Additionally requires the supplemental reports to indicate each person under the custody or supervision of DPSC who is eligible to register or vote pursuant to present law (R.S. 18:102(A)(1)(b)) and who is not ineligible pursuant to present law (R.S. 18:102(A)(1)(c)).

Present law (R.S. 18:171.1) provides for reporting concerning federal convictions. Requires each U.S. attorney to notify the secretary of state of certain felony convictions in a U.S. district court.

Proposed law retains present law.

Present law requires reporting for any felony conviction of a person for which there is an order of imprisonment.

Proposed law instead requires reporting for any felony conviction of a person for which there is an order of imprisonment and for which the person is incarcerated.

Present law (R.S. 18:176(A)) provides for suspension of voter registration based on a felony conviction. Requires the registrar to send a notice to certain persons. Provides that the notice shall inform the person that he must appear in person at the office of the registrar of voters within 21 days after the date on which the notice was mailed to show cause why his registration should not be suspended. Provides that if the registrant appears and shows cause within the 21 days, the registrar shall not suspend the registration.

Proposed law retains present law.

Present law requires the registrar to send a notice to each person listed on a report received pursuant to present law (R.S. 18:171 or 171.1) and to any person the registrar has reason to believe has been convicted of a felony and is under an order of imprisonment.

Proposed law additionally requires that the registrar must believe the person is ineligible to register or vote pursuant to present law (R.S. 18:102(A)(1)) to send a notice.

Present law (R.S. 18:177) provides for reinstatement of registration after suspension. Provides that the registration of a person whose registration has been suspended by the registrar of voters pursuant to present law (R.S. 18:176(A)) shall be reinstated when the person appears and provides documentation from the appropriate correction official showing that such person is no longer under an order of imprisonment or, if the person is under such an order, that the person has not been incarcerated pursuant to the order within the last five years and the person is not under an order of imprisonment related to a felony conviction pursuant to election fraud or any other election offense pursuant to present law (R.S. 18:1461.2). Provides that certain persons may instead provide the required documentation by mail.

Proposed law repeals the requirement that the person appear in the office of the registrar and provide the documentation. Instead provides that the registration is reinstated when the registrar receives the required documentation. Repeals provisions that allow certain persons to provide the required documentation by mail. Otherwise retains present law.

(Amends R.S. 18:102(A)(1)(b), 171(A) and (C)(1) and (2), 171.1(A)(1), 176(A)(1) and (2), and 177(A)(1); Repeals R.S. 18:177(A)(2))