

2021 Regular Session

HOUSE BILL NO. 378

BY REPRESENTATIVE JENKINS

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

VOTERS/VOTING: Provides relative to registration and voting by a person with a felony conviction

1 AN ACT

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

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 18:102(A)(1)(b), 171(A), (B), and (C), 171.1(A)(1), and 176(A)(1),
13 (2), and (3)(b) are hereby amended and reenacted and R.S. 18:102(C) is hereby enacted to
14 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 to
2 register or vote based on the order ~~if the person submits documentation to the~~
3 ~~registrar of voters from the appropriate correction official showing that the person~~
4 ~~has not been incarcerated pursuant to the order within the last five years.~~

5 * * *

6 C. For purposes of this Chapter, "incarcerated pursuant to the order" means
7 actual confinement in a correctional facility pursuant to the order of imprisonment,
8 including confinement after conviction but prior to sentencing for which the person
9 is given credit in the order and confinement following revocation of probation or
10 parole. "Incarcerated pursuant to the order" does not include confinement pursuant
11 to a violation of a condition of probation or parole that does not result in revocation.

12 * * *

13 §171. Report of convictions of felony

14 A. The clerk of a court having jurisdiction over a criminal proceeding shall
15 record in the minute book in his office each conviction of a felony for which there
16 is an order of imprisonment and for which the person is incarcerated pursuant to the
17 order and the name, aliases, date of birth, sex, and address of the person subject to
18 the conviction. This recordation shall be made immediately after the judgment is
19 signed.

20 B.(1) If requested, the sheriff and district attorney shall provide information
21 regarding a person convicted of a felony to a registrar of voters, if available,
22 including the convicted felon's date of birth, driver's license number, address, and
23 mother's maiden name and the type of felony offense and whether the conviction
24 resulted in an order of imprisonment pursuant to which the person is incarcerated.

25 (2) If requested, the secretary of the Department of Public Safety and
26 Corrections or his authorized representative shall provide information to a registrar
27 of voters regarding a person who is under an order of imprisonment for conviction
28 of a felony, including whether the person is under an order of imprisonment for
29 conviction of a felony offense of election fraud or any other election offense

1 pursuant to R.S. 18:1461.2 and whether the person has been incarcerated pursuant
2 to the order within the last five years.

3 C.(1) The secretary of the Department of Public Safety and Corrections shall
4 send to the Department of State a report, certified as correct over his signature or the
5 signature of his authorized representative, containing the name, date of birth, sex,
6 and address as such information exists in the database of any person ~~who has a~~
7 ~~felony conviction and who is~~ currently under the custody or supervision of the
8 Department of Public Safety and Corrections: who meets either of the following:

9 (a) The person is under an order of imprisonment for conviction of a felony
10 and has been incarcerated pursuant to the order within the last five years.

11 (b) The person is under an order of imprisonment for conviction of a felony
12 offense of election fraud or any other election offense pursuant to R.S. 18:1461.2.

13 (2) The secretary of the Department of Public Safety and Corrections shall
14 send to the Department of State supplemental reports, certified as correct over his
15 signature or the signature of his authorized representative, containing the ~~name, date~~
16 ~~of birth, sex, and address as such information exists in the database of any person~~
17 ~~who has a felony conviction, who is currently under the custody or supervision of the~~
18 ~~Department of Public Safety and Corrections, and whose name was not on~~ required
19 information for persons described in Paragraph (1) of this Subsection who were not
20 included in the report sent pursuant to Paragraph (1) of this Subsection or on in any
21 subsequent supplemental report. The secretary shall also indicate in the
22 supplemental reports each person who has a felony conviction and who has been
23 released from the custody or supervision of the Department of Public Safety and
24 Corrections and whether the individual has been granted or is eligible to be granted
25 a first offender pardon. Such supplemental reports shall be sent to the Department
26 of State on no less than a quarterly basis.

27 (3) Upon receipt of any ~~supplemental~~ report, the Department of State shall
28 confirm that the information therein has been entered into the department's databases
29 and provide for correction, if necessary.

1 ~~(3)~~(4) The Department of State shall send to the registrar of voters of each
2 parish such information received from the Department of Public Safety and
3 Corrections ~~regarding persons with a felony conviction~~ on no less than a quarterly
4 basis.

5 * * *

6 §171.1. Conviction of felony in federal court; notification

7 A.(1) Each United States attorney shall give written notice to the secretary
8 of state of any felony conviction of a person in a district court of the United States
9 for which there is an order of imprisonment ~~in a district court of the United States~~
10 ~~to the secretary of state~~ and for which the person is incarcerated pursuant to the
11 order.

12 * * *

13 §176. Suspension and cancellation of registration and challenge of unlawful
14 registration on the basis of reports

15 A.(1) The registrar shall send a notice to each person listed on a report
16 received pursuant to R.S. 18:171 or 171.1 and to any person the registrar has reason
17 to believe ~~has been convicted of a felony and is under an order of imprisonment~~ is
18 ineligible to register or vote pursuant to R.S. 18:102(A)(1). The notice shall be
19 mailed first class, postage prepaid, to the address on file at the registrar's office.

20 (2) The notice shall state that the registrar has information that the registrant
21 ~~has been convicted of a felony and is under an order of imprisonment~~ for conviction
22 of a felony and that the conviction is for an election offense or the registrant has been
23 incarcerated pursuant to the order within the last five years. The notice ~~and~~ shall
24 inform the person that he must appear in person at the office of the registrar of voters
25 within twenty-one days after the date on which the notice was mailed to show cause
26 why his registration should not be suspended.

27 (3)

28 * * *

1 (b) If the registrant fails to appear within the required twenty-one days, the
 2 registrar shall suspend the registration in the state voter registration computer system
 3 and, if necessary, by drawing in red ink a line through the registrant's name on the
 4 precinct register and the duplicate precinct register. Such line shall be initialed by
 5 the registrar or employee of the registrar. The registrar shall note in the registrant's
 6 information on the state voter registration computer system and, if the original
 7 application is available in hard copy in the registrar's office, on the original
 8 application for registration that the registrar has been notified of an order of
 9 imprisonment for conviction of a felony ~~for which there is an order of imprisonment~~
 10 which makes the registrant ineligible to register or vote pursuant to R.S.
 11 18:102(A)(1), and he shall note also the date of the suspension and the date of the
 12 report, when applicable. If the original application is available in hard copy in the
 13 registrar's office, the registrar shall remove the original application from his file of
 14 eligible voters and shall place it in his suspension file. In addition, each person
 15 whose registration is suspended under this Subsection shall immediately be notified
 16 of the suspension and the reason therefor.

17 * * *

18 Section 2. This Act shall become effective on February 1, 2022.

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 378 Engrossed | 2021 Regular Session | Jenkins |
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Abstract: Provides procedures, reports, and definitions relative to registration and voting by a person with a felony conviction.

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 provides that except for those convicted of certain election-related offenses, a person who is under an order of imprisonment for conviction of a felony and who has not been incarcerated pursuant to the order within the last five years shall not be ineligible to vote based on the order if the person submits 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 removes the requirement of submission of documentation to the registrar of voters.

Proposed law additionally provides that "incarcerated pursuant to the order" means actual confinement in a correctional facility pursuant to the order of imprisonment, including confinement after conviction but prior to sentencing for which the person is given credit in the order and confinement following revocation of probation or parole. Provides that "incarcerated pursuant to the order" shall not include confinement pursuant to a violation of a condition of probation or parole that does not result in revocation.

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 instead that the required information must be recorded for each conviction of a felony for which the person is incarcerated pursuant to the order.

Present law requires the sheriff and district attorney to provide specified information, if available, regarding persons convicted of a felony to a registrar of voters, if requested. Proposed law adds that the information include the type of felony offense and whether the conviction resulted in an order of imprisonment for which the person is incarcerated pursuant to the order.

Proposed law further requires the secretary of the Dept. of Public Safety and Corrections or his authorized representative (DPSC), if requested, to provide information to a registrar of voters regarding a person who is under an order of imprisonment for conviction of a felony, including whether the person is under an order of imprisonment for conviction of a felony offense of election fraud or any other election offense pursuant to present law (R.S. 18:1461.2) and whether the person has been incarcerated pursuant to the order within the last five years.

Present law requires the secretary of 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 present 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 provides that the reports only contain the information regarding those persons who are ineligible to register or vote pursuant to the provisions of present law (R.S. 18:102(A)(1)).

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 removes present law.

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 pursuant to 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. Provides if the registrant fails to appear, the registrar shall suspend the registration and note specified information regarding the suspension in the registrant's registration information. 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 instead provides that the registrar send the notice to each such person the registrar has reason to believe is ineligible to register or vote pursuant to present law (R.S. 18:102(A)(1)). Proposed law further requires the registrar to include in the notice to the registrant the information pursuant to present law that constitutes the reason the registrar believes the registrant ineligible. Proposed law further requires the registrar to note that information in the registrant's registration information.

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 specified persons may instead provide the required documentation by mail, facsimile, commercial carrier, or hand delivery. Proposed law retains present law.

Effective Feb. 1, 2022.

(Amends R.S. 18:102(A)(1)(b), 171(A), (B), and (C), 171.1(A)(1), and 176(A)(1), (2) and (3)(b); Adds R.S. 18:102(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Add specific effective date of Feb. 1, 2022.