

A bill for an act

relating to elections; conforming certain voter eligibility requirements to constitutional requirements; amending Minnesota Statutes 2010, sections 201.014, subdivision 2; 201.071, subdivision 1; 201.15, subdivision 1; 204C.10; 524.5-313; 524.5-316.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 201.014, subdivision 2, is amended to read:

Subd. 2. **Not eligible.** The following individuals are not eligible to vote. Any individual:

(a) convicted of treason or any felony whose civil rights have not been restored;

(b) under a guardianship in which ~~the~~ a court order ~~revokes~~ has not reinstated the ward's right to vote; or

(c) found by a court of law to be legally incompetent.

Sec. 2. Minnesota Statutes 2010, section 201.071, subdivision 1, is amended to read:

Subdivision 1. **Form.** A voter registration application must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number; and voter's signature. The registration application may include the voter's e-mail address, if provided

by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

(1) will be at least 18 years old on election day;

(2) am a citizen of the United States;

(3) will have resided in Minnesota for 20 days immediately preceding election day;

(4) maintain residence at the address given on the registration form;

(5) am not under court-ordered guardianship ~~in which the court order revokes, or I~~
am under a court-ordered guardianship but the court has reinstated my right to vote;

(6) have not been found by a court to be legally incompetent to vote;

(7) have the right to vote because, if I have been convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and

(8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

An individual may use a voter registration application to apply to register to vote in Minnesota or to change information on an existing registration.

Sec. 3. Minnesota Statutes 2010, section 201.15, subdivision 1, is amended to read:

Subdivision 1. **Guardianships and incompetents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number of each individual 18 years of age or over, who since the last report:

(1) was placed under a guardianship ~~in which the court order revokes the ward's right to vote~~, unless the court has issued an order reinstating the ward's right to vote; or

(2) was adjudged legally incompetent.

The court administrator shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (1) or (2). The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Sec. 4. Minnesota Statutes 2010, section 204C.10, is amended to read:

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

(a) An individual seeking to vote shall sign a polling place roster which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship ~~in which the~~ or, if under guardianship, a court order ~~revokes~~ has reinstated the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both."

(b) A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth.

(c) After the applicant signs the roster, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

Sec. 5. Minnesota Statutes 2010, section 524.5-313, is amended to read:

524.5-313 POWERS AND DUTIES OF GUARDIAN.

(a) A guardian shall be subject to the control and direction of the court at all times and in all things.

(b) The court shall grant to a guardian only those powers necessary to provide for the demonstrated needs of the ward.

(c) The court may appoint a guardian if it determines that all the powers and duties listed in this section are needed to provide for the needs of the incapacitated person. The court may also appoint a guardian if it determines that a guardian is needed to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this section. The duties and powers of a guardian or those which the court may grant to a guardian include, but are not limited to:

(1) the power to have custody of the ward and the power to establish a place of abode within or outside the state, except as otherwise provided in this clause. The ward or any interested person may petition the court to prevent or to initiate a change in abode. A ward may not be admitted to a regional treatment center by the guardian except:

(i) after a hearing under chapter 253B;

(ii) for outpatient services; or

(iii) for the purpose of receiving temporary care for a specific period of time not to exceed 90 days in any calendar year;

(2) the duty to provide for the ward's care, comfort, and maintenance needs, including food, clothing, shelter, health care, social and recreational requirements, and, whenever appropriate, training, education, and habilitation or rehabilitation. The guardian has no duty to pay for these requirements out of personal funds. Whenever possible and appropriate, the guardian should meet these requirements through governmental benefits or services to which the ward is entitled, rather than from the ward's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal of a private guardian, but the guardian shall have no personal or monetary liability;

(3) the duty to take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects, and, if other property requires protection, the power to seek appointment of a conservator of the estate. The guardian must give notice by mail to interested persons prior to the disposition of the ward's clothing, furniture, vehicles, or other personal effects. The notice must inform the person of the right to object to the disposition of the property within ten days of the date of mailing and to petition the court for a review of the guardian's proposed actions. Notice of the objection must be served by mail or personal service on the guardian and the ward unless the ward is the objector. The guardian served with notice of an objection to the disposition of the property may not dispose of the property unless the court approves the disposition after a hearing;

(4)(i) the power to give any necessary consent to enable the ward to receive necessary medical or other professional care, counsel, treatment, or service, except that no

guardian may give consent for psychosurgery, electroshock, sterilization, or experimental treatment of any kind unless the procedure is first approved by order of the court as provided in this clause. The guardian shall not consent to any medical care for the ward which violates the known conscientious, religious, or moral belief of the ward;

(ii) a guardian who believes a procedure described in item (i) requiring prior court approval to be necessary for the proper care of the ward, shall petition the court for an order and, in the case of a public guardianship under chapter 252A, obtain the written recommendation of the commissioner of human services. The court shall fix the time and place for the hearing and shall give notice to the ward in such manner as specified in section 524.5-308 and to interested persons. The court shall appoint an attorney to represent the ward who is not represented by counsel, provided that such appointment shall expire upon the expiration of the appeal time for the order issued by the court under this section or the order dismissing a petition, or upon such other time or event as the court may direct. In every case the court shall determine if the procedure is in the best interest of the ward. In making its determination, the court shall consider a written medical report which specifically considers the medical risks of the procedure, whether alternative, less restrictive methods of treatment could be used to protect the best interest of the ward, and any recommendation of the commissioner of human services for a public ward. The standard of proof is that of clear and convincing evidence;

(iii) in the case of a petition for sterilization of a developmentally disabled ward, the court shall appoint a licensed physician, a psychologist who is qualified in the diagnosis and treatment of developmental disability, and a social worker who is familiar with the ward's social history and adjustment or the case manager for the ward to examine or evaluate the ward and to provide written reports to the court. The reports shall indicate why sterilization is being proposed, whether sterilization is necessary and is the least intrusive method for alleviating the problem presented, and whether it is in the best interest of the ward. The medical report shall specifically consider the medical risks of sterilization, the consequences of not performing the sterilization, and whether alternative methods of contraception could be used to protect the best interest of the ward;

(iv) any ward whose right to consent to a sterilization has not been restricted under this section or section 252A.101 may be sterilized only if the ward consents in writing or there is a sworn acknowledgment by an interested person of a nonwritten consent by the ward. The consent must certify that the ward has received a full explanation from a physician or registered nurse of the nature and irreversible consequences of the sterilization;

(v) a guardian or the public guardian's designee who acts within the scope of authority conferred by letters of guardianship under section 252A.101, subdivision 7, and according to the standards established in this chapter or in chapter 252A shall not be civilly or criminally liable for the provision of any necessary medical care, including, but not limited to, the administration of psychotropic medication or the implementation of aversive and deprivation procedures to which the guardian or the public guardian's designee has consented;

(5) in the event there is no duly appointed conservator of the ward's estate, the guardian shall have the power to approve or withhold approval of any contract, except for necessities, which the ward may make or wish to make;

(6) the duty and power to exercise supervisory authority over the ward in a manner which limits civil rights and restricts personal freedom only to the extent necessary to provide needed care and services;

(7) if there is no acting conservator of the estate for the ward, the guardian has the power to apply on behalf of the ward for any assistance, services, or benefits available to the ward through any unit of government;

(8) pursuant to the Minnesota Constitution, article VII, unless otherwise ordered by the court, the ward ~~retains~~ does not retain the right to vote.

Sec. 6. Minnesota Statutes 2010, section 524.5-316, is amended to read:

524.5-316 REPORTS; MONITORING OF GUARDIANSHIP; COURT ORDERS.

Subdivision 1. Annual report of guardian. (a) A guardian shall report to the court in writing on the condition of the ward at least annually and whenever ordered by the court. A copy of the report must be provided to the ward and to interested persons of record with the court. A report must state or contain:

(1) the current mental, physical, and social condition of the ward;

(2) the living arrangements for all addresses of the ward during the reporting period;

(3) any restrictions placed on the ward's right to communication and visitation with persons of the ward's choice and the factual bases for those restrictions;

(4) the medical, educational, vocational, and other services provided to the ward and the guardian's opinion as to the adequacy of the ward's care;

(5) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship, including whether, in the view of the guardian, the ward's eligibility to vote should be rescinded, restored, or continue unchanged;

(6) an address and telephone number where the guardian can be contacted;

(7) whether the guardian has ever been removed for cause from serving as a guardian or conservator and, if so, the case number and court location;

(8) any changes occurring that would affect the accuracy of information contained in the most recent criminal background study of the guardian conducted under section 524.5-118; and

(9) if applicable, the amount of reimbursement for services rendered to the ward that the guardian received during the previous year that were not reimbursed by county contract.

(b) A ward or interested person of record with the court may submit to the court a written statement disputing statements or conclusions regarding the condition of the ward that are contained in the report and may petition the court for an order that is in the best interests of the ward or for other appropriate relief.

(c) An interested person may notify the court in writing that the interested person does not wish to receive copies of reports required under this section.

(d) The court may appoint a visitor to review a report, interview the ward or guardian, and make any other investigation the court directs.

(e) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports. If an annual report is not filed within 60 days of the required date, the court shall issue an order to show cause.

Subd. 2. **Annual review; ward's capacity to vote.** At least annually, following receipt of the report of the guardian required by subdivision 1, the court shall issue a written determination as to the ward's capacity to make independent voting decisions at an election. In making the determination, the court must consider the recommendation and any documents submitted in the annual report of the guardian as prima facie evidence of the ward's capacity to make independent voting decisions, and must affirmatively order that the ward's eligibility to vote is rescinded, restored, or continues unchanged. A determination by the court made under this subdivision may be modified by the court at any time upon a showing that the ward's capacity has changed in a manner warranting a modification of the ward's eligibility to vote.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective August 1, 2011, and apply to eligibility to vote in elections occurring on or after that date.