

A bill for an act

relating to elections; requiring certain notices; providing an affirmative defense; eliminating certain duties and requirements; creating a working group; requiring a report; amending Minnesota Statutes 2010, sections 201.054, by adding a subdivision; 201.155; 201.275; repealing Minnesota Statutes 2010, section 201.157.

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

Section 1. Minnesota Statutes 2010, section 201.054, is amended by adding a subdivision to read:

Subd. 4. **Affirmative defense.** It is an affirmative defense to a prosecution for violation of subdivision 2, paragraph (a), that:

(1) the individual requested, in writing, that the county auditor of the county in which the individual resides withdraw the individual's registration;

(2) the individual has not voted under the registration; and

(3) the request to withdraw was made before any complaint was filed charging the violation.

Sec. 2. Minnesota Statutes 2010, section 201.155, is amended to read:

201.155 REPORT ~~ON FELONY CONVICTIONS~~ OF CONVICTED FELONS UNDER COUNTY SUPERVISION; NOTICE.

Subdivision 1. **Notice of voting rights status.** 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, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been

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~~convicted of a felony. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. 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 each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.~~

The corrections official for each county shall provide documented notice of voting rights status to each person serving a felony sentence who is under the county's supervision or was under the county's supervision at any time during the prior year. The notice must be provided not later than 18 weeks before the first Tuesday after the first Monday in November of each year. The notice must be provided to:

- (1) persons who are scheduled to remain on probation through the general election;
- (2) persons who are scheduled to complete probation and be restored to their civil rights after the notice is sent but before the next general election; and
- (3) persons who have completed probation and have had their civil rights restored in the last year.

The notice must include an email address and telephone number to contact the county corrections official and the appropriate county auditor.

Subd. 2. **Inactive record; notice.** The county corrections official shall forward to the secretary of state an electronic list of persons who were notified under this section. The secretary of state shall compare the names on the list with records in the statewide registration system and forward the names of voters for whom there is a match to the county auditor of the county where the person is registered to vote. If a person received notice under subdivision 1, clause (1) or (2), the county auditor shall change the voter's status to inactive and shall send the person notice of the action. A voter affected by this action may appeal the decision to make the voter's record inactive by written request to the county auditor no later than 28 days after the date of the notice to the voter. If a person received notice under subdivision 1, clause (3), the county auditor shall remove the challenge from the person's voting record.

Subd. 3. **Ineligible voters; investigation.** Within 16 weeks after the general election, the secretary of state shall compare the list of persons who received notice under subdivision 1, clause (1), with the list of persons who voted in the primary or general election and forward names of those persons who both voted in the primary or general election and received the notice provided in subdivision 1, clause (1), to the appropriate county attorney for investigation. No later than March 1 of each year, the secretary of state shall report to the chairs of the house and senate committees with jurisdiction over election

law on the number of persons who both received the notice provided in subdivision 1, clause (1), and voted in the subsequent primary or general election.

Subd. 4. **Best practices working group on voting rights.** The secretary of state shall chair and convene a working group to develop and distribute to all county auditors, county attorneys, and county corrections officials, forms to be used and related best practices on the following:

(1) notice to convicted felons appearing on voter registration applications;

(2) notice to convicted felons appearing on polling place rosters;

(3) notice to convicted felons at polling places;

(4) notice to felons at the time of conviction;

(5) notice to felons of loss of the right to vote in sentencing forms, probation agreements, and other criminal justice system documents; and

(6) procedures for accurately resolving questions concerning the eligibility of persons serving felony sentences.

The working group must include the secretary of state, the commissioner of corrections or the commissioner's designee, the state court administrator or the administrator's designee, one corrections representative designated by the Minnesota Association of County Probation Officers, one corrections representative designated by the Minnesota Association of Community Corrections Act Counties, two county auditors designated by the Minnesota Association of County Auditors and Treasurers, one from a metropolitan area and one from greater Minnesota, and two county attorney representatives designated by the Minnesota County Attorneys Association, one from a metropolitan area and one from greater Minnesota.

By January 15, 2012, the working group shall submit a report outlining its work to the chairs and ranking minority members of the house and senate committees with jurisdiction over criminal justice and election policy and finance.

Sec. 3. Minnesota Statutes 2010, section 201.275, is amended to read:

201.275 INVESTIGATIONS; PROSECUTIONS.

~~A county attorney who is notified by affidavit of an alleged violation of this chapter Law enforcement shall promptly investigate alleged violations of this chapter. If there is probable cause for instituting a prosecution, the county attorney shall proceed by complaint or present the charge, with whatever evidence has been found, to the grand jury. A county attorney who refuses or intentionally fails to faithfully perform this or any other duty imposed by this chapter is guilty of a misdemeanor and upon conviction shall forfeit office. The county attorney, under the penalty of forfeiture of office, shall prosecute all~~

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4.1 ~~violations of this chapter except violations of this section; if, however, a complainant~~
4.2 ~~withdraws an allegation under this chapter, the county attorney is not required to proceed~~
4.3 ~~with the prosecution~~ in accordance with the American Bar Association Criminal Justice
4.4 Section standards regarding the prosecution function.

4.5 Sec. 4. **REPEALER.**

4.6 Minnesota Statutes 2010, section 201.157, is repealed.

201.157 USE OF DEPARTMENT OF CORRECTIONS DATA.

As required by the Help America Vote Act of 2002, Public Law 107-252, the commissioner of corrections shall make electronic data available to the secretary of state on individuals 18 years of age or older who are currently serving felony sentences under the commissioner's jurisdiction. The data must include the name, date of birth, corrections' state identification number, and if available, the driver's license or state identification card number, and, if an individual has completed the sentence, the date of discharge.

The secretary of state must determine if any data newly indicates that:

(1) an individual with an active voter registration in the statewide voter registration system is currently serving a felony sentence under the commissioner's jurisdiction and the individual's voter record does not already have a challenged status due to a felony conviction;

(2) an individual with an active voter registration in the statewide voter registration system who is currently serving a felony sentence under the commissioner's jurisdiction appears to have registered to vote or to have voted during a period when the individual's civil rights were revoked; and

(3) an individual with a voter record that has a challenged status due to a felony conviction who was serving a felony sentence under the commissioner's jurisdiction has been discharged from a sentence.

The secretary of state shall prepare a list of the registrants included under clause (1), (2), or (3) for each county auditor. For individuals under clause (1), the county auditor shall challenge the individual's record in the statewide voter registration system. The county auditor must provide information to the county attorney about individuals under clause (2) for the county attorney's investigation. For individuals under clause (3), the county auditor must determine if the challenge status should be removed from the voter record for the individual, and if so, must remove the challenge.

The secretary of state must make the required determinations and provide the required lists to the county auditors at least monthly.

For each state general election that occurs prior to the statewide voter registration system being programmed to generate lists as required by this section, the secretary of state must make the determination and provide lists to the county auditors between 30 and 60 days before the election and again between six and ten weeks after the election. In the year following that state election, the secretary of state must make this determination and provide lists to the county auditors again as part of the annual list maintenance.