

(SENATE AUTHORS: CHAMBERLAIN and Sieben)

DATE	D-PG	OFFICIAL STATUS
02/23/2012	3934	Introduction and first reading Referred to Local Government and Elections
03/08/2012		Comm report: To pass as amended and re-refer to Judiciary and Public Safety

1.1

A bill for an act

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relating to elections; modifying certain election administration procedures for

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individuals who have been convicted of a felony; amending Minnesota Statutes

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2010, sections 201.054, subdivision 2, by adding a subdivision; 201.157;

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201.275; 204C.14; 241.065, subdivision 2; Minnesota Statutes 2011 Supplement,

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section 203B.06, subdivision 3; proposing coding for new law in Minnesota

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Statutes, chapter 244.

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

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Section 1. Minnesota Statutes 2010, section 201.054, is amended by adding a

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subdivision to read:

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Subd. 1a. **Invalid registrations; notice to voter.** (a) If the county auditor has reason

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to believe based upon records provided by another public entity that an individual who

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has submitted a voter registration application is not eligible to vote, the county auditor

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must notify the individual of the reason that the individual's eligibility is in question

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and that the individual will not be registered to vote unless the individual reaffirms the

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individual's eligibility in writing.

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(b) If, subsequent to an individual registering to vote but prior to the person voting

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in an election, the county auditor has reason to believe based upon records provided by

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another public entity that the individual is not eligible to vote, the county auditor must

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notify the individual of the reason that the individual's eligibility is in question and that

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the individual's registration will be removed in 21 days unless the individual reaffirms

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the individual's eligibility in writing. The county auditor must also immediately change

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the individual's status in the statewide voter registration system to "challenged." If the

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individual does not reaffirm the individual's eligibility in writing by the 21st day, the

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county auditor must change the individual's status in the statewide voter registration system

to "inactive." This procedure also applies to information provided to county auditors under sections 201.15, subdivision 1; 201.155; 201.157, clauses (1) and (2); and 201.158.

Sec. 2. Minnesota Statutes 2010, section 201.054, subdivision 2, is amended to read:

Subd. 2. **Prohibitions; penalty; affirmative defense.** (a) No individual shall intentionally:

(a) (1) cause or attempt to cause the individual's name to be registered in any precinct if the individual is not eligible to vote;

(b) (2) cause or attempt to cause the individual's name to be registered for the purpose of voting in more than one precinct;

(c) (3) misrepresent the individual's identity when attempting to register to vote; or

(d) (4) aid, abet, counsel, or procure any other individual to violate this subdivision.

~~A violation of this subdivision is a felony.~~

An individual who violates clause (1) but does not subsequently cast a ballot is guilty of a misdemeanor. An individual who violates clause (1) and subsequently casts a ballot is guilty of a felony. All other violations of this subdivision are a felony.

(b) It is an affirmative defense to a prosecution for violation of paragraph (a), clause (1), if the individual:

(1) requested, in writing, that the county auditor of the county where the individual resides withdraw the registration, and the request was made before any complaint was filed alleging a violation of paragraph (a), clause (1); and

(2) did not vote at an election between the time the registration application was submitted and the time the individual requested the registration be withdrawn.

Sec. 3. Minnesota Statutes 2010, section 201.157, is amended to read:

**201.157 USE OF DEPARTMENT OF CORRECTIONS DATA.**

Subdivision 1. Access to 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:

(1) serving felony sentences under the commissioner's jurisdiction; or

(2) on probation for felony offenses that would result in the loss of civil rights, as indicated by the statewide supervision system established under section 241.065.

The data must include the name, date of birth, last known residential address that is not a correctional facility, 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 or is on probation for a felony offense that would result in the loss of civil rights 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 or who is on probation for a felony offense that would result in the loss of civil rights 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 or who has been on probation for a felony offense that would result in the loss of civil rights 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.

**Subd. 2. Notice to affected individuals.** The secretary of state shall use the data provided in subdivision 1 to mail written notices at least one month prior to a state general election, as follows:

(1) a notice to each individual on probation for a felony offense that would result in the loss of civil rights, informing the individual that registration or voting while on

probation for the offense is itself a felony offense and may result in the loss of the individual's probation status; and

(2) a notice to each individual who has completed a term of probation resulting in the loss of civil rights and who has no new felony conviction, that the individual's right to vote has been restored.

Subd. 3. **Use of data.** The secretary of state may only use or disseminate data submitted under subdivision 1 for purposes authorized by this section.

Sec. 4. Minnesota Statutes 2010, section 201.275, is amended to read:

**201.275 INVESTIGATIONS; PROSECUTIONS.**

~~A county attorney who law enforcement agency that is notified by affidavit of an alleged violation of this chapter shall promptly investigate. 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 violations of this chapter except violations of this section; if, however, a complainant withdraws an allegation under this chapter, the county attorney is not required to proceed with the prosecution in accordance with the American Bar Association Criminal Justice Section standards regarding the prosecution function.~~

Sec. 5. Minnesota Statutes 2011 Supplement, section 203B.06, subdivision 3, is amended to read:

Subd. 3. **Delivery of ballots.** (a) The commissioner of corrections must provide the secretary of state with a list of the names and mailing addresses of correctional facilities in which only persons convicted of felony-level offenses reside in Minnesota. An application for an absentee ballot that provides an address included on the list provided by the commissioner of corrections must not be accepted and an absentee ballot must not be provided to the applicant. The county auditor or municipal clerk must promptly transmit a copy of the application to the county attorney. The Department of Corrections shall implement procedures to ensure that absentee ballots issued under chapter 203B are not received or mailed by offenders incarcerated at correctional facilities in which only persons convicted of felony-level offenses reside.

(b) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the

application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

~~(b)~~ (c) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.121, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Sec. 6. Minnesota Statutes 2010, section 204C.14, is amended to read:

**204C.14 UNLAWFUL VOTING; PENALTY.**

Subdivision 1. Violations; penalty. No individual shall intentionally:

(a) misrepresent the individual's identity in applying for a ballot, depositing a ballot in a ballot box or attempting to vote by means of a voting machine or electronic voting system;

(b) vote more than once at the same election;

(c) put a ballot in a ballot box for any illegal purpose;

(d) give more than one ballot of the same kind and color to an election judge to be placed in a ballot box;

(e) aid, abet, counsel or procure another to go into any precinct for the purpose of voting in that precinct, knowing that the other individual is not eligible to vote in that precinct; or

(f) aid, abet, counsel or procure another to do any act in violation of this section.

A violation of this section is a felony.

Subd. 2. **Signature on roster as evidence of intent.** For purposes of proving a violation of this section, the signature of an individual on a polling place roster is prima facie evidence of the intent of the individual to vote at that election.

Sec. 7. Minnesota Statutes 2010, section 241.065, subdivision 2, is amended to read:

Subd. 2. **Establishment.** The Department of Corrections shall administer and maintain a computerized data system for the purpose of assisting criminal justice agencies in monitoring and enforcing the conditions of conditional release imposed on criminal offenders by a sentencing court or the commissioner of corrections. The adult data and juvenile data as defined in section 260B.171 in the statewide supervision system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to the Minnesota sex offender program as provided in section 246B.04, subdivision 3, to public defenders as provided in section 611.272, to all trial courts and appellate courts, and to criminal justice agencies in other states in the conduct of their official duties. Adult data in the statewide supervision system are accessible to the secretary of state for the purposes described in section 201.157.

Sec. 8. **[244.25] NOTICE OF LOSS OF VOTING RIGHTS.**

Whenever an adult felon is placed on probation supervision, the individual must be provided a written notice, included in the probation agreement, that the individual may not register to vote or cast a ballot in any election during the period of felony supervision. The individual must acknowledge, by signature, receipt of the notice. A copy of the notice and signature must be placed in the felon's probation supervision file.