

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1324

By: Horner

AS INTRODUCED

An Act relating to voting rights of felons; amending 26 O.S. 2001, 4-120.4, which relates to cancellation of registration for convicted felons; modifying language; defining terms; denying right to vote for certain persons convicted of a felony offense; modifying procedure to cancel voter registration of convicted felons; criminalizing voting while incarcerated; stating penalty; directing the Department of Corrections to compile and transmit certain list to the Secretary of the State Election Board; providing for certain supplemental lists; stating content of certain lists; directing the secretary of a county election board to cancel voting registration of certain felons; providing exception; granting immunity for certain actions; allowing voter registration of felons after release from incarceration; deleting language; removing requirement for court clerk to send a copy of each felony judgment and sentence to the county election board; authorizing the Secretary of the State Election Board to accept certain notice of convictions from the United States Attorney; amending 26 O.S. 2001, Sections 4-120, 4-120.3 and 4-120.4, which relate to cancellation of registrations, deceased persons, and registration applications; modifying language; requiring the Department of Corrections to provide certain notice of inmate deaths to the Secretary of the State Election Board; providing for removal of deceased person's voter registration; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 26 O.S. 2001, Section 4-120.4, is amended to read as follows:

Section 4-120.4 A. ~~The~~ A person convicted of a felony offense shall be denied the right to vote while incarcerated. For purposes of this section:

1. "Convicted or conviction" means a court of competent jurisdiction has entered a judgment upon a verdict or plea of guilty

or nolo contendere for a felony offense and has imposed the sentence detailing the punishment for such felony offense; and

2. "Incarcerated or incarceration" means the person is in actual physical custody in a jail, penal institution or private facility pursuant to a governmental agency that has authority to enforce a judgment and sentence for a felony offense from a court of competent jurisdiction.

B. Any person who votes in any election held in this state or its political subdivisions, or who attempts to vote in any election held in this state or its political subdivisions, while convicted and incarcerated for a felony offense shall, upon conviction, be guilty of a misdemeanor punishable by a fine in an amount not to exceed Five Hundred Dollars (\$500.00). In addition, the violator shall be ordered to reimburse the state and any political subdivision for all costs relating to the violation.

C. Any person who knowingly delivers, completes, or mails any ballot on behalf of any person convicted and incarcerated for a felony offense shall be guilty of a misdemeanor punishable by a fine in an amount not to exceed Five Hundred Dollars (\$500.00). In addition, the violator shall be ordered to reimburse the state and any political subdivision for all costs relating to the violation.

D. By August 5, 2002, the Department of Corrections shall compile and transmit to the Secretary of the State Election Board a list of all Oklahoma inmates, including inmates transferred or received pursuant to the Interstate Compact Act, who are convicted and incarcerated for a felony offense under the laws of this state or another state. Thereafter by the fifth day of each month, the Department of Corrections shall compile and transmit ~~each month~~ to the Secretary of the State Election Board a supplemental list of all ~~persons~~ Oklahoma inmates received for incarceration by the Department during the previous month, including inmates received pursuant to the Interstate Corrections Compact; provided, the inmate

~~is convicted of felonies, which convictions have become final, and deliver said list to the Secretary of the State Election Board. The Secretary of the State Election Board shall accept written notice from the United States Attorney of persons convicted of felonies offense in a district court of the United States, which convictions have become final and incarcerated for a felony offense by the authority of a court of competent jurisdiction. Each listing shall contain the following information for each inmate:~~

1. Full name;

2. Date of birth;

3. County and place of residence within Oklahoma prior to current incarceration;

4. Last known residential mailing address; and

5. Social Security number.

E. The Secretary of the State Election Board shall transmit said the list and notice received from the Department of Corrections as provided in subsection D of this section to the secretary of each county election board who shall cancel the registrations voter registration in this state of all registered voters inmates included on said the list and notice, and such persons shall be ineligible for registration for a period of time equal to the time prescribed in the judgment and sentence; provided, however, when the identity of an inmate as a registered voter cannot be accurately determined, the Secretary of the State Election Board may request additional information in writing from the Department. Where the accurate identification of an inmate as a registered voter cannot be determined, the secretary of the county election board may deny cancellation of the voter registration, and, in such case, the voter registration may be removed as otherwise provided by law.

~~B. The court clerk in each county shall forward a copy of each journal entry of judgment and sentence for each person convicted in the county of a felony to the secretary of the county election board~~

~~within forty five (45) days after the journal entry is filed. The secretary shall cancel the registration of all registered voters included on the journal entries and the registered voters shall be ineligible for registration for a period of time equal to the time prescribed in the journal entry~~

F. The Secretary of the State Election Board and the secretary of each county election board, and their agents and employees, shall not be held civilly liable for any action based upon information received from the Department of Corrections pursuant to subsections D and E of this section if a reasonable effort was made to accurately match the inmate information to the voter registration records before canceling any voter registration.

G. When a person who is convicted and incarcerated for a felony offense is released from such incarceration, whether to probation or by pardon, parole, commutation or otherwise, the person may apply for voter registration in this state according to law.

H. The Secretary of the State Election Board shall accept written notice from the United States Attorney of persons convicted of a felony offense in a district court of the United States and sentenced to incarceration. The Secretary of the State Election Board shall transmit the notice to the secretary of each county election board who shall cancel the voter registration in this state of all inmates included on the notice who are convicted and incarcerated for a federal felony offense; provided, however, when the identity of an inmate as a registered voter cannot be accurately determined, the Secretary of the State Election Board may request additional information in writing from the United States Attorney. Where the accurate identification of an inmate as a registered voter cannot be determined, the secretary of the county election board may deny cancellation of the voter registration, and, in such case, the voter registration may be removed as otherwise provided by law. The Secretary of the State Election Board and the secretary of each

county election board, their agents and employees shall not be held civilly liable for any action based upon the information received from the United States Attorney if a reasonable effort was made to accurately match the inmate information to the voter registration records before canceling any voter registration.

SECTION 2. AMENDATORY 26 O.S. 2001, Section 4-120, is amended to read as follows:

Section 4-120. The registration of any registered voter may be ~~cancelled~~ canceled only for one of the following reasons: Written notice from the voter; death; conviction ~~of~~ and incarceration for a felony as provided in Section 4-120.4 of this title; judicial determination of mental incapacitation under Title 30 of the Oklahoma Statutes; registration in another county or state; or failure to respond to a confirmation of address mailing and failure to vote as prescribed in Section ~~21~~ 4-120.2 of this ~~act~~ title.

SECTION 3. AMENDATORY 26 O.S. 2001, Section 4-120.3, is amended to read as follows:

Section 4-120.3 ~~The~~ Each month the State ~~Health~~ Department of Health shall ~~each month~~ transmit to the Secretary of the State Election Board a certified list of all deaths of residents that have occurred within the state for the immediately preceding month. Each month the Department of Corrections shall transmit to the Secretary of the State Election Board a certified list of all deaths of Oklahoma inmates that have occurred within the immediately preceding month, including deaths occurring outside this state where the inmate was serving a sentence pursuant to the Interstate Corrections Compact or otherwise where the Department receives notice of an inmate death. The Secretary of the State Election Board shall transmit ~~said~~ the list of deaths to the secretary of the county election board who shall ~~then use said list to ascertain those voters who are deceased, and shall thereafter remove such~~ each deceased person's name from the central registry and the Oklahoma

Election Management System. ~~Said~~ The list shall be used only for the purposes ~~hereinbefore~~ described in this section. Where the identity of a deceased person as a registered voter in this state cannot be accurately determined, the secretary of the county election board may refuse to cancel a voter registration, and, in such case, the voter registration may be removed as otherwise provided by law. In addition, the voter registration of a deceased ~~voter~~ person may be canceled by the secretary of a county election board upon the execution of a form by the next of kin of ~~said the~~ deceased ~~voter of a form~~ person, and upon ~~the nature of~~ proof of the fact ~~thereof~~ of such death as may be prescribed by the Secretary of the State Election Board. ~~Said~~ The form to remove a deceased person's name from the voter registration records must be executed in person by ~~said the~~ next of kin ~~at~~ as follows:

1. At the county election board office, ~~in which case it shall be~~ and witnessed by the secretary or other designated employees, ~~at;~~

2. At the voter's precinct polling place on the day of any election, ~~in which case it shall be~~ and witnessed by the inspector of ~~said the~~ precinct; ~~or the form may be personally~~

3. Personally signed by the next of kin, ~~with~~ such signature ~~to~~ be notarized by a notary public, ~~and returned~~ the form with notary seal mailed to the county election board.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-120.7, is amended to read as follows:

Section 4-120.7 The registration application of registered voters whose registration has been canceled, upon written notice of the voter, death, conviction ~~of~~ and incarceration for a felony as provided in Section 4-120.4 of this title, judicial determination of mental incapacitation or registration in another county or state in the manner hereinbefore provided, shall be removed from the central registry and maintained separately for a period of twenty-four (24) months by the secretary of each county election board. Reason for

cancellation and date of ~~said~~ the cancellation shall be noted on ~~said~~ the registration application. After twenty-four (24) months, the registration application ~~shall~~ may be destroyed.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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