

HB

597

Questioned Ballot Oath and Affidavit

Name _____

Previous Name (if registered to vote under that name) _____

Residence Address _____

Mailing Address _____

Phone _____

Provide at least one of the following for identification:

Voter No. _____ S.S.N. _____

Birthdate _____

Dist. _____

Prec. _____

FOR OFFICIAL USE

Voter No. _____

Dist/Prec. _____

Not Microfiche _____

Not Card File _____

Not Research File _____

Not Pending File _____

Purged _____

Delete _____

C / NC

I do hereby certify that I am a citizen of the United States, am 18 years of age or older as of this election, am not a felon involving moral turpitude, am currently a qualified voter of the State of Alaska, or have been to the best of my knowledge a registered voter some time during the previous four years, and have not voted in any other manner at this election.

SIGNATURE OF VOTER

TO BE COMPLETED BY PERSON QUESTIONING BALLOT:

Reason:

1. Incorrect Polling Place _____

2. Unknown, Not Proper I.D. _____

3. Name not on precinct register. _____ Give any details _____

4. Suspect Qualifications: _____

_____ a. Not U.S. Citizen.

_____ b. Not 18 years of age.

_____ c. Convicted Felon: If yes, give date of restoration of civil rights. _____ If not in Alaska, give state _____

_____ d. Not resident of election district.

If #4d is checked, complete: Previous Residence _____

Length of time _____

Signature of person questioning ballot _____

If other than member of election board, provide:

Mailing Address _____

Phone Number _____

Introduced: 2/9/84
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 597

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the election laws of the state; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 15.05.030 is amended to read:

10 Sec. 15.05.030. LOSS AND RESTORATION OF VOTING RIGHTS. (a) A
11 person convicted of a crime that constitutes a felony involving moral
12 turpitude under state law may not vote in a state or a municipal
13 election from the date of the conviction through the date of the
14 restoration of voting rights under this section. The right to vote
15 withdrawn under this section is automatically restored upon the uncon-
16 ditional discharge of the person. However, before voting, the person
17 must register under AS 15.07.

18 (b) The commissioner of health and social services shall estab-
19 lish procedures by which a person unconditionally discharged is
20 advised of the restoration of voting rights withdrawn by a conviction
21 and of the voter registration requirements and procedures.

22 * Sec. 2. AS 15.07.135 is amended to read:

23 Sec. 15.07.135. CANCELLATION [SUSPENSION] OF REGISTRATION OF
24 CONVICTED PERSONS. The director shall make reasonable efforts to ob-
25 tain the names of persons convicted of a felony involving moral turpi-
26 tude. [THE DIRECTOR SHALL ALSO MAKE REASONABLE EFFORTS TO OBTAIN THE
27 NAMES OF PERSONS UNCONDITIONALLY DISCHARGED FROM CUSTODY.] The direc-
28 tor shall cancel [SUSPEND] the registration of a person convicted of a
29 felony involving moral turpitude. Upon presenting proof that [UNTIL]

1 the person is unconditionally discharged from custody, the person may
2 register. The director may also make reasonable efforts to verify the
3 unconditional discharge of persons applying for registration under
4 this section.

5 * Sec. 3. AS 15.07.160 is amended to read:

6 Sec. 15.07.160. UNLAWFUL ACTION. (a) Except as provided in
7 AS 15.07.135, it [IT] is unlawful for a registration official to re-
8 fuse to register a person who is qualified to vote under provisions of
9 AS 15.05.010(1) -- (4).

10 (b) It is unlawful for a person to register who knows he is not
11 qualified to vote under provisions of AS 15.05.010(1) -- (4) or 15.-
12 05.030.

13 (c) (Repealed)

14 * Sec. 4. AS 15.15.198(b) [and AS 15.20.207(b)(2) are repealed.]

15 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
16 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
Bill/Resolution No.: HB 597
Title: amending the election
laws of the state
Sponsor: Rules
Requestor: Governor
Date of Request: 2/23/84

FISCAL DETAIL
Agency Affected: ELECTIONS
Program Category Affected: _____
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		-0--				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 SUPPLIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis : HB 597 addresses small

Prepared By: T.P. Thoma, Information Officer Phone: 4611
Division: Elections Date: 2/23/84

Approved by Commissioner: [Signature] Date: 2/27/84
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

INTRODUCTION OF BILLS (House)

HB 596, (cont d)

- AS 35.27.020, "Art Requirements for Public Buildings and Facilities," in which subsec. (c) refers to "schools;" and
- AS 35.27.030, "Definitions," in which para. (2) refers to "schools."

Section 4 amends the definition of "department" in the chapter on art works in public buildings and facilities. AS 35.27.030(1). Reference to the school districts is added to the definition for the same reasons as mentioned in connection with sec. 3, above. The definition of "building" or "facility" in AS 35.27.030(2)(A)(1) is not being amended because there is no intent to delete the requirement for art work in public buildings -- just to make the responsibility for it clear in conjunction with ch. 92. SLA 1982.

Section 5 makes a similar amendment in the definition section -- AS 35.30.040 -- for the chapter on consistency with local government plans and ordinances.

These amendments do not include references to the court system because, although ch. 160, SLA 1980 transferred construction responsibility for court facilities from DOT/PF to the supreme court (see AS 22.05.025 and AS 35.05.010), sec. 3 of that Act, as amended by sec. 2, ch. 70, SLA 1982, terminates that transfer as of June 30, 1984.

Section 6 gives this bill an immediate effective date since these amendments simply seek to complete the job of the 1982 amendments.

I urge your favorable action to preserve the intent of ch. 52, SLA 1982 and eliminate, for the benefit of the public, cluttered, inconsistent provisions.

State Election Laws (amending) HOUSE BILL NO. 597, by the Rules Committee by Request of the Governor. Amends state election laws (see Governor's letter). Provides Act takes effect immediately.

Introduced February 9 and referred to State Affairs, Finance.

In his message transmitting the bill, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which amends or repeals several provisions of the state's election law.

Sections 1 and 2 of the bill remove from the division of elections the burden of identifying and automatically reinstating the voter registration of certain felons who have been unconditionally discharged. Instead of suspending the registration of a person convicted of a felony involving moral turpitude, the division will cancel the registration until the person provides proof of unconditional discharge. Section 3 of the bill amends AS 15.07.160, concerning unlawful acts, to conform to the changes made by secs. 1 and 2 of the bill.

Section 4 of the bill repeals AS 15.15.198(b), which allows to be counted certain questioned votes of voters whose names have been purged from the registration lists. As a result of the repeal, voters whose registrations have been cancelled under AS 15.07.130(b) will have to re-register in order to have their votes counted. Since AS 15.07.130(b) requires the division to mail a notice of imminent registration cancellation to the affected voter, and AS 15.07.125 requires the division to post the list of registered voters 40 days before an election, a voter has adequate opportunity to preserve his or her voting rights.

HB 597

Section 4 also repeals AS 15.20.207(b)(2), removing the requirement that, in order for a questioned ballot to be counted, the voter's certificate must be attested by an election official. This requirement prevents an otherwise valid ballot from being counted when the voter has complied with all procedures but a hurried election worker fails to countersign the voter's certificate.

Sincerely,

/s/ Bill Sheffield

Bill Sheffield
Governor"

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
POUCH AF
JUNEAU, ALASKA 99811-9974

PHONE (907) 586-6181

DATE: February 27, 1984

TO: House State Affairs Committee

FROM: Mary Lou Meiners
Director
Division of Elections

SUBJECT: HB 597, Canceling the Voter Registration of Some
Felons and Two Housekeeping Measures

HB 597 would place the burden of re-registering to vote on the ex-felon who can verify his unconditional discharge.

Present state law requires suspension of "felons convicted of crimes of moral turpitude." By the use of suspension, we feel that a special class of voter has been created. No other voter is "suspended."

With the enactment of HB 597, we could cancel the registration of these felons without use of a suspension file. This would clarify for not only this agency, but all agencies dealing with felons, that the obligation to re-register should be on the ex-felon. This would eliminate the uncertainty and misconception of the ex-felon that, even though his voting rights are restored, he is not "automatically" restored to the voter rolls.

The two other housekeeping measures are referenced in Section 4, Page 2, line 14.

The repeal of AS 15.15.198(b) would give us a strict, two year purge, as is defined in AS 15.07.130.

Under 15.15.198(b), each questioned ballot not found on the state voter rolls must be further researched to see if the voter was registered in the last 4 years, "the two most recent general elections."

House State Affairs
Page 2
February 27, 1984

If so, the vote is counted, although this voter was previously purged. The repeal of this section would enforce a two-year purge and speed up vote counting.

The last measure is the repeal of 15.20.207(b)(2):

Repeal would remove the statute which says that questioned ballots must be disqualified if the outside affidavit envelope is not signed by a voter official.

With this repeal, we would then count all questioned ballots of voters who are properly registered. These voters performed their duty and should not be disfranchised by an error on the part of an election worker who inadvertently neglected to sign the envelope.

MEMORANDUM

State of Alaska
DIRECTOR OF ELECTIONS

HB 547

TO: Hon. Terry Miller
Lieutenant Governor

DATE: November 7, 1980 NOV 10 1980

ATTN: Patty Ann Polley, Director
Division of Elections

FILE NO: J-66-001-81 DIRECTOR OF ELECTIONS
TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Restoration of voting rights to convicted felons X-
voting rights

By: Laura L. Davis
Assistant Attorney General

You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery; . . .

Patty Ann Polley, Director
Division of Elections

November 7, 1980
Page #2

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor
Akeela House - Anchorage

FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree
Murder in the Second Degree
Manslaughter
Assault in the First Degree
Assault in the Second Degree
Kidnapping
Sexual Assault in the First Degree
Sexual Assault in the Second Degree
Sexual Assault in the Third Degree
Incest
Unlawful Exploitation of a Minor
Robbery in the First Degree
Robbery in the Second Degree
Extortion
Coercion
Theft in the First Degree
Theft in the Second Degree
Burglary in the First Degree
Burglary in the Second Degree
Arson in the First Degree
Arson in the Second Degree
Criminal Mischief in the First Degree
Criminal Mischief in the Second Degree
Forgery in the First Degree
Forgery in the Second Degree
Criminal Possession of a Forgery Device
Offering a False Instrument for Recording
Scheme to Defraud
Falsifying Business Records
Commercial Bribe Receiving
Commercial Bribery
Endangering the Welfare of a Minor
Bribery
Receiving a Bribe
Perjury
Perjury by Inconsistent Statements
Escape in the First Degree
Escape in the Second Degree
Promoting Contraband in the First Degree
Interference with Official Proceedings
Receiving a Bribe by a Witness or Juror
Jury Tampering
Misconduct by a Juror
Tampering with Physical Evidence
Hindering Prosecution in the First Degree
Terroristic Threatening
Riot
Criminal Possession of Explosives
Unlawful Furnishing of Explosives
Promoting Prostitution in the First Degree

August 14, 1968

M E M O R A N D U M

TO: Office of the Governor
Attn: Thelma Cutler
Director of Elections

FROM: G. Kent Edwards
Attorney General

By: Robert J. Mahoney
Assistant Attorney General

RE: Voting qualifications of convicted felon - AS 15.05.030.

You have requested our opinion concerning the eligibility of persons convicted of a felony to vote in Alaska. The pertinent constitutional provision is found in Article V, § 2 of the Alaska Constitution which states in part:

DISQUALIFICATIONS. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored.

That provision was supplemented by AS 15.05.030 which provides:

No person may vote who has been convicted either by the state courts of Alaska, by the courts of another state or by the federal courts of a felony under Alaska law involving moral turpitude under Alaska law unless his civil rights have been restored by law or by the proper authority in the jurisdiction in which the person was convicted. Felonies involving moral turpitude include, but are not limited to, the crimes of murder, abortion, rape, robbery, kidnapping, burglary, incest, and other crimes which are punishable by imprisonment in the penitentiary under Alaska law and which involve conduct contrary to justice, honesty, modesty or good morals.
[emphasis added.]

As set forth in the statute and constitutional provision, the first prerequisite to disqualification is conviction. Concerning the meaning of "conviction" as used in this type of statute, it has been said:

The word conviction . . . must mean a final judgment of conviction. A judgment is not final if there still remains some legal means of setting it aside. There may be ways to avoid its execution, such as general pardon, but a judgment in an ordinary criminal case . . . becomes final when all available means to avoid its effect have been exhausted.

Stephens v. Toomey, 51 Cal.2d 864, 333 P.2d 182 (1959). It is thus apparent that the disability would not attach prior to the period for appeal or during the pendency of an appeal. The disqualification would likewise not attach to an individual who has been convicted on his plea of guilty and who has received a deferred imposition of sentence. In the latter case a sentence is not inflicted and after successful completion of the period of probation that is usually imposed the defendant can be discharged without imprisonment.

The conviction must be for a crime which constitutes a felony involving moral turpitude under Alaska law. Since the statute provides an adequate guide in determining which crimes involve moral turpitude, further elaboration of this requirement is not necessary.

The most difficult of the criteria relates to the imposition of disability until such time as the civil rights of the convicted individual are restored by law or the proper authority. It should be noted that the restoration of civil rights depends on the law of jurisdiction in which the person was convicted. Thus, in the case of convicted felons from other states, their eligibility to vote depends on the laws of that state.

Two statutory provisions are pertinent in considering the qualifications of persons convicted in Alaska. The first, AS 11.05.070 provides:

EFFECT OF JUDGMENT OF IMPRISONMENT IN PENITENTIARY. A judgment of imprisonment in a penitentiary for a term less than life suspends the civil rights of the person sentenced, and forfeits all public offices and all private trusts, authority, or power during the term of duration of imprisonment. [Emphasis added]

AS 33.15.190 provides that a person on parole remains in the custody of the parole board and is subject to the disability imposed by AS 11.05.070. It is thus clear that a person convicted in Alaska of a felony involving moral turpitude may not vote during any period of incarceration or parole.

electing a candidate for the office of President, Vice-President, presidential elector, United States senator or United States representative;

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery;

(9) "general election" means the election held on the Tuesday after the first Monday in November of even-numbered years;

(10) "hand-marked ballot" means a ballot designated to be marked by hand with a pen or pencil;

(11) "lieutenant governor" includes an appointed lieutenant governor, governor, or acting governor if a vacancy has occurred in the office of lieutenant governor or governor;

(12) "limited political party" means a political group which organizes for the purpose of selecting candidates for electors for President and Vice-President;

(13) "local election" means a regular or special election held by a borough, city, school district, or regional educational attendance area;

(14) "master register" means the list of all registered voters in the state which is maintained by the director of elections;

(15) "member of a political party" means a person who supports the political program of a party;

(16) "oath" includes affirmation; "sworn" includes affirmed;

(17) "official registration list" means the list of all voters qualified to vote at a particular election compiled in accordance with AS 15.07.125;

(18) "party district committee" means the political party committee that performs the executive function for a region representing an area larger than a precinct and smaller than the state;

(19) "political group" means a group of organized voters which represents a political program and which does not qualify as a political party;

(20) "political party" means a group of organized voters which represents a political program and which nominated a candidate for governor who received at least 10 percent of the total vote cast at the preceding general election for governor;

(21) "precinct" means the territory within which resident voters may cast votes at one polling place;

(22) "presidential election year" means a year in which the presidential electors are elected;

(23) "proposition" means an initiative, referendum, or constitutional amendment submitted at an election to the public for vote;

(24) "punch-card ballot" means a ballot designed to be punched by a machine and counted by automatic data processing equipment;

(25) "qualified voter" means a person who has the qualification of a voter and is not disqualified as provided by art. V, § 2, of the state constitution and AS 15.05.030;

HBS

(26) "question" means an issue placed on the ballot to determine whether a judge or justice shall be accepted or rejected, whether a constitutional convention shall be called, whether a state debt shall be contracted, or whether a state official shall be recalled;

(27) "registration official" includes an employee of the division of elections when performing the task of voter registration and a person appointed to serve as a registration official in accordance with AS 15.07.031 or 15.07.100;

(28) "senate district" means the territory included in the election districts as designated by art. XIV, § 2, of the state constitution, as may be modified under art. V of the state constitution;

(29) "signature" or "description" includes a mark intended as a signature or subscription;

(30) "special election" means an election held at a time other than when the general or party primary election is held and an election called to be held with, and at the time of, the general or party primary election;

(31) "state chairman" means the party official elected as the highest ranking statewide party executive;

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole;

(33) "vacancy" exists in an office when the person elected or appointed to the office resigns, retires, dies, is recalled, is rejected by majority vote on the question at an election, is convicted of a corrupt practice, is removed by impeachment, or is expelled;

(34) "voter" means a person who presents himself for the purpose of voting either in person or by absentee ballot. (§ 12.01 ch 83 SLA 1960; am § 11 ch 71 SLA 1972; am § 13 ch 38 SLA 1974; am § 29 ch 197 SLA 1975; am § 9 ch 208 SLA 1976; am § 207 ch 100 SLA 1980)

Revisor's notes. — The word "as" was added following "themselves such" in paragraph (8) by the revisor of statutes under AS 01.05.031.
 Effect of amendments. — The 1980 amendment rewrote the section. Legislative history reports. — For report on ch. 71, SLA 1972 (HCSH 383 am 11), see 1972 House Journal, p. 898.

NOTES TO DEFINITIONS

Opinions of attorney general. — For a list of crimes which constitute felonies involving moral turpitude. Nov. 7, 1980, Op. Atty Gen. Quoted in *Turkington v. City of Kachemak*, Sup. Ct. Op. No. 141 (File No. 177), 380 P.2d 583 (1963).

Sec. 15.60.020. Short title. AS 15.05.010 -- 15.60.020 may be cited as the Alaska Election Code. (§ 12.02 ch 83 SLA 1960)