

1 HB237
2 172958-1
3 By Representatives Givan, Knight, Daniels, Warren, Forte,
4 England, McClammy, Jackson, Melton, Buskey, Bracy and Boyd
5 RFD: Constitution, Campaigns and Elections
6 First Read: 16-FEB-16

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8 SYNOPSIS: Under Article VIII of the Constitution of
9 Alabama of 1901, now appearing as Article VIII,
10 Section 177 of the Official Recompilation of the
11 Constitution of Alabama of 1901, as amended, a
12 citizen loses the right to vote if convicted of a
13 "felony involving moral turpitude."

14 This bill would provide a definition of
15 moral turpitude for purposes of disqualifying
16 otherwise eligible citizens from voting.

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18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to voting rights; to amend Section
23 15-22-36.1, Code of Alabama 1975; to add Section 17-3-30.1 to
24 the Code of Alabama 1975; and to provide a definition of moral
25 turpitude that lists the crimes that disqualify otherwise
26 eligible citizens from voting.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 15-22-36.1, Code of Alabama 1975,
2 is amended to read as follows:

3 "§15-22-36.1.

4 "(a) Any other provision of law notwithstanding, any
5 person, regardless of the date of his or her sentence, may
6 apply to the Board of Pardons and Paroles for a Certificate of
7 Eligibility to Register to Vote if all of the following
8 requirements are met:

9 "(1) The person has lost his or her right to vote by
10 reason of conviction in a state or federal court ~~in any case~~
11 ~~except those listed in subsection (g) of a crime listed in~~
12 Section 17-3-30.1.

13 "(2) The person has no criminal felony charges
14 pending against him or her in any state or federal court.

15 "(3) The person has paid all fines, court costs,
16 fees, and victim restitution ordered by the sentencing court.

17 "(4) Any of the following are true:

18 "a. The person has been released upon completion of
19 sentence.

20 "b. The person has been pardoned.

21 "c. The person has successfully completed probation
22 or parole and has been released from compliance by the
23 ordering entity.

24 "(b) The Certificate of Eligibility to Register to
25 Vote shall be granted upon a determination that all of the
26 requirements in subsection (a) are fulfilled.

1 "(c) Upon receipt of an application under this
2 section, investigation of the request shall be assigned
3 forthwith to an officer of the state Board of Pardons and
4 Paroles. The assigned officer shall verify, through court
5 records, records of the board, and records of the Department
6 of Corrections, that the applicant has met the qualifications
7 set out in subsection (a). The officer shall draft a report of
8 his or her findings and make a recommendation concerning
9 whether the offender has successfully completed his or her
10 sentence and has complied with all the eligibility
11 requirements provided in subsection (a).

12 "(d) After completing the investigation set out in
13 subsection (c), the officer shall submit his or her report of
14 investigation and recommendation to the Executive Director of
15 the Board of Pardons and Paroles, who shall refer the report
16 and recommendation to a senior staff member to determine
17 whether the applicant has met the qualifications set out in
18 subsection (a).

19 "(e) Upon the senior staff member's completion of
20 his or her review of the report and recommendation and a
21 determination that all eligibility requirements of subsection
22 (a) have been met, he or she shall file a report with the
23 Executive Director of the Board of Pardons and Paroles stating
24 whether or not all of the criteria for obtaining a Certificate
25 of Eligibility to Register to Vote have been met. Within 45
26 days of the date of the initial application for a certificate
27 under this section, the executive director shall make the

1 reports and recommendations available to the members of the
2 board for review and if, within five days, no objection is
3 made by a board member on the basis that the criteria set out
4 in subsection (a) have not been met, the executive director
5 shall issue a Certificate of Eligibility to Register to Vote
6 to the applicant; ~~provided, however, that the 45-day~~
7 ~~requirement in this sentence shall not apply for the first 90~~
8 ~~days following September 25, 2003.~~ Upon determination by the
9 senior staff member that any of the criteria have not been
10 met, the applicant shall be notified of the reasons the
11 Certificate of Eligibility to Register to Vote will not be
12 issued and that upon satisfaction of all outstanding
13 requirements, a new request may be submitted by the applicant.

14 "(f) In the event a board member objects to the
15 issuance of a Certificate of Eligibility to Register to Vote
16 on the basis that the criteria set out in subsection (a) have
17 not been met, the matter shall be referred to the next hearing
18 docket of the board, without regard to any other provision of
19 law affecting the setting of a hearing date, for the board to
20 determine whether the applicant has met the criteria
21 established by subsection (a). In the event the board
22 determines, by a majority vote, that the criteria have been
23 met, the executive director shall forthwith issue a
24 Certificate of Eligibility to Register to Vote to the
25 applicant. Upon a determination by the board that the criteria
26 have not been met, the applicant shall be notified of the
27 reasons the Certificate of Eligibility to Register to Vote

1 will not be issued, and that upon satisfaction of all
2 outstanding requirements, a new application may be submitted
3 by the applicant.

4 ~~"(g) A person who has lost his or her right to vote
5 by reason of conviction in a state or federal court for any of
6 the following will not be eligible to apply for a Certificate
7 of Eligibility to Register to Vote under this section:
8 Impeachment, murder, rape in any degree, sodomy in any degree,
9 sexual abuse in any degree, incest, sexual torture, enticing a
10 child to enter a vehicle for immoral purposes, soliciting a
11 child by computer, production of obscene matter involving a
12 minor, production of obscene matter, parents or guardians
13 permitting children to engage in obscene matter, possession of
14 obscene matter, possession with intent to distribute child
15 pornography, or treason.~~

16 ~~"(h) (g)~~ This section shall not affect the right of
17 any person to apply to the board for a pardon with restoration
18 of voting rights pursuant to Section 15-22-36."

19 Section 2. Section 17-3-30.1 is added to the Code of
20 Alabama 1975, to read as follows:

21 §17-3-30.1.

22 (a) The Legislature finds that:

23 (1) Article VIII of the Constitution of Alabama of
24 1901, now appearing as Article VIII, Section 177 of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended, provides that Alabama citizens shall lose the

1 right to vote because of a criminal conviction only if the
2 conviction was for a "felony involving moral turpitude."

3 (2) Under current Alabama felony disenfranchisement
4 law, there is no comprehensive list of disqualifying felonies.
5 Neither individuals with felony convictions, nor elections
6 officials, have any authoritative source for determining which
7 convictions result in disenfranchisement.

8 (3) In the absence of an authoritative list of
9 disqualifying offenses, many eligible Alabama citizens have
10 been unlawfully excluded from the franchise. It is now widely
11 documented that many county registrars have denied voting
12 rights to all otherwise eligible voters with a felony
13 conviction, whether or not the conviction involved moral
14 turpitude.

15 (4) In 2006, the Circuit Court of Jefferson County,
16 Alabama, ruled that Alabama's practices violate the United
17 States Constitution as well as the Alabama Constitution by
18 relying on a vague standard for denying voting rights. The
19 circuit court called on the Legislature to remedy those
20 violations by precisely defining which crimes disqualify
21 otherwise eligible citizens from voting.

22 (b) The purposes of this section are:

23 (1) To give full effect to Article VIII of the
24 Constitution of Alabama of 1901, now appearing as Article
25 VIII, Section 177 of the Official Recompilation of the
26 Constitution of Alabama of 1901, as amended.

1 (2) To remedy ongoing constitutional violations
2 under current law.

3 (3) To ensure that no one is wrongfully excluded
4 from the franchise.

5 (c) For purposes of Article VIII of the Constitution
6 of Alabama of 1901, now appearing as Article VIII, Section 177
7 of the Official Recompilation of the Constitution of Alabama
8 of 1901, as amended, a person is disqualified to vote by
9 reason of conviction of a "felony involving moral turpitude"
10 if he or she is convicted of any of the following in a degree
11 constituting a felony: Bribery, perjury, forgery, or other
12 high crime or misdemeanor, defined as treason or abuse of
13 public office.

14 Section 3. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.