

1 SB214
2 110575-1
3 By Senator Singleton
4 RFD: Judiciary
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, there is an established
9 procedure for the restoration of voting rights of
10 felons who have satisfactorily completed conditions
11 of their sentence. Restoration of voting rights is
12 made through an application to the Board of Pardons
13 and Parole.

14 Under Article VIII of the Constitution of
15 Alabama of 1901, now appearing as Article VIII,
16 Section 177 of the Official ReCompilation of the
17 Constitution of Alabama of 1901, as amended, a
18 citizen loses the right to vote if convicted of a
19 felony involving moral turpitude.

20 This bill would create the Alabama
21 Restoration of Voting Rights Act.

22 This bill would provide for legislative
23 findings and purposes and would provide a
24 definition of moral turpitude that lists the crimes
25 which disqualify otherwise eligible citizens from
26 voting.

1 This bill would provide for the automatic
2 restoration of voting rights of a person who has
3 been convicted of a felony involving moral
4 turpitude when he or she is discharged from
5 incarceration.

6 This bill would specify responsibilities of
7 the Secretary of State concerning such voter
8 restoration.

9 This bill would amend certain existing
10 sections of the Code of Alabama 1975, to conform
11 with such restoration process and would amend
12 provisions relating to absentee voting to expressly
13 apply to persons who are eligible to vote and are
14 incarcerated.

15 This bill would also establish a temporary
16 legislative oversight committee and a task force to
17 monitor the restoration of voting rights.

18 This bill would have retroactive effect.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To provide for the Alabama Restoration of Voting
25 Rights Act; to define acts involving moral turpitude; to
26 provide for legislative findings and purposes; and to provide
27 further for Chapter 3 of Title 17 of the Code of Alabama 1975,

1 by adding a new Section 17-3-30.1 to list the offenses that
2 constitute a felony involving moral turpitude; to provide for
3 the Alabama Restoration of Voting Rights Act; to amend
4 Sections 17-3-31, 17-4-6, 17-4-60, 17-11-3, and 17-11-7, Code
5 of Alabama 1975; to provide that a person who has been
6 convicted of a felony involving moral turpitude would have his
7 or her voting rights restored when he or she is discharged
8 from incarceration; to establish a temporary legislative
9 oversight committee; to repeal Section 15-22-36.1, Code of
10 Alabama 1975; and to provide for a retroactive effect.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall be known and may cited as
13 the Alabama Restoration of Voting Rights Act.

14 Section 2. (a) The Legislature finds that:

15 (1) Article VIII of the Constitution of Alabama of
16 1901, now appearing as Article VIII, Section 177 of the
17 Official Recompilation of the Constitution of Alabama of 1901,
18 as amended, provides that Alabama citizens shall lose the
19 right to vote because of a criminal conviction only if the
20 conviction was for a "felony involving moral turpitude."

21 (2) Under current Alabama felony disenfranchisement
22 law, there is no comprehensive list of disqualifying felonies.
23 Neither individuals with felony convictions, nor elections
24 officials, have any authoritative source for determining which
25 convictions result in disenfranchisement.

26 (3) In the absence of an authoritative list of
27 disqualifying offenses, many eligible Alabama citizens have

1 been unlawfully excluded from the franchise. It is now widely
2 documented that many county registrars have denied voting
3 rights to all otherwise-eligible voters with a felony
4 conviction, whether or not the conviction involved moral
5 turpitude.

6 (4) In 2006, the Circuit Court of Jefferson County,
7 Alabama, ruled that Alabama's practices violate the United
8 States Constitution as well as the Alabama Constitution by
9 relying on a vague standard for denying voting rights. The
10 circuit court called on the Legislature to remedy those
11 violations by precisely defining which crimes disqualify
12 otherwise-eligible citizens from voting.

13 (b) The purposes of this act are: (1) to give full
14 effect to Article VIII of the Constitution of Alabama of 1901,
15 now appearing as Article VIII, Section 177 of the Official
16 Recompilation of the Constitution of Alabama of 1901, as
17 amended, (2) to remedy ongoing constitutional violations under
18 current law, and (3) to ensure that no one is wrongfully
19 excluded from the franchise.

20 Section 3. (a) Except in cases of treason or
21 impeachment, a person who has been convicted of a felony
22 involving moral turpitude shall have his or her right to vote
23 restored for each federal, state, county, municipal, and other
24 local election in Alabama when that person is discharged from
25 incarceration.

26 (b) Before accepting a plea of guilty or nolo
27 contendere to a felony involving moral turpitude, and before

1 imposing sentence for such a felony after trial, the court
2 shall notify the defendant that conviction will result in loss
3 of the right to vote only if and for as long as the person is
4 incarcerated and that voting rights are restored upon
5 discharge.

6 (c) The Department of Corrections and, subject to
7 their agreement under 42 U.S.C. §1973gg-5(a)(3)(B)(ii), the
8 federal correctional institutions in Alabama shall act as
9 voter registration agencies in accordance with Section
10 17-4-250(d), Code of Alabama 1975. In this capacity, and as
11 part of the release process leading to a person's discharge
12 from a correctional facility, the Department of Corrections or
13 the federal correctional institutions in Alabama shall notify
14 that person in writing that voting rights will be restored;
15 provide that person with a voter registration form, including
16 a section for indicating acceptance or declination of voter
17 registration services; and offer that person assistance in
18 filling out the form. Unless the registrant refuses to permit
19 it to do so, the Department of Corrections or the federal
20 correctional institution shall transmit the completed voter
21 registration form to the county boards of registrars in the
22 same manner and according to the same administrative rules as
23 govern other voter registration agencies designated in Section
24 17-4-250(d), Code of Alabama 1975.

25 (d) The State Department of Corrections and, subject
26 to their agreement, federal correctional institutions in
27 Alabama shall, on or before the 15th day of each month,

1 transmit to the Secretary of State two lists. The first list
2 shall contain the following information about persons age 18
3 or older who, during the preceding reporting period, have
4 become ineligible to vote because of their incarceration upon
5 conviction of a felony involving moral turpitude. The second
6 list shall contain the following information about persons age
7 18 or older, who, during the preceding reporting period, have
8 become eligible to vote because of their discharge from
9 incarceration. The lists shall include all of the following:

10 (1) Name.

11 (2) Date of birth.

12 (3) Last known address with county of residence.

13 (4) Date of conviction.

14 (5) Driver's license number, if known, and last four
15 digits of Social Security number, if known.

16 (e) The Secretary of State shall ensure that the
17 computerized statewide voter registration list is purged of
18 the names of persons who are ineligible to vote because of
19 their incarceration upon conviction of a felony involving
20 moral turpitude. The Secretary of State shall ensure that the
21 names of persons who are eligible and registered to vote
22 following their discharge from incarceration are added to the
23 computerized statewide voter registration list in the same
24 manner as all other names are added to that list, in
25 accordance with Section 17-4-210, Code of Alabama 1975.

26 (f) The Secretary of State shall ensure that persons
27 who become eligible to vote upon their discharge from

1 incarceration face no continued barriers to registration or
2 voting resulting from their felony convictions.

3 (g) The Secretary of State shall develop and
4 implement a program to educate attorneys; judges; election
5 officials; corrections officials, including parole and
6 probation officers; and members of the public about the
7 requirements of this section. The program shall ensure all of
8 the following:

9 (1) Judges are informed of their obligation to
10 notify criminal defendants of the potential loss and
11 restoration of their voting rights, in accordance with
12 subsection (b).

13 (2) The Department of Corrections and, subject to
14 their agreement, federal correctional institutions in Alabama
15 are prepared to assist people with registration to vote in
16 anticipation of their discharge from incarceration, including
17 by forwarding their completed voter registration forms to the
18 county boards of registrars.

19 (3) The language on voter registration forms makes
20 clear that a person is disqualified from voting while serving
21 a prison sentence on a conviction of a felony involving moral
22 turpitude and that the person regains the right to vote when
23 discharged from incarceration.

24 (4) The Department of Corrections and, subject to
25 their agreement, federal correctional institutions in Alabama
26 are prepared to transmit to the Secretary of State the
27 information specified in subsection (d).

1 (5) The Supervisor of Voter Registration is prepared
2 both to purge names from and to restore names to the
3 computerized statewide voter registration list in accordance
4 with subsection (e).

5 (6) Probation and parole officers are informed of
6 the change in the law and are prepared to notify each
7 probationer and parolee that the right of the person to vote
8 is restored.

9 (7) Accurate and complete information about the
10 voting rights of people who have been charged with or
11 convicted of crimes, whether disfranchising or not, is made
12 available through a single publication to government officials
13 and the public.

14 (h) The Secretary of State, pursuant to the Alabama
15 Administrative Procedure Act, shall promulgate pertinent rules
16 necessary to implement this act.

17 Section 4. Section 17-3-30.1 is added to the Code of
18 Alabama 1975, to read as follows:

19 §17-3-30.1.

20 For purposes of this article, a person is
21 disqualified to vote by reason of conviction of a felony
22 involving moral turpitude which includes only the following
23 offenses committed in a degree constituting a felony:

24 (1) Impeachment as defined in Article VII of the
25 Official Recompilation of the Constitution of Alabama of 1901,
26 as amended.

27 (2) Murder as defined in Section 13A-6-2.

- 1 (3) Rape as defined in Sections 13A-6-61 and
2 13A-6-62.
- 3 (4) Sodomy as defined in Sections 13A-6-63 and
4 13A-6-64.
- 5 (5) Sexual abuse as defined in Sections 13A-6-66 and
6 13A-6-69.1.
- 7 (6) Incest as defined in Section 13A-13-3.
- 8 (7) Sexual torture as defined in Section 13A-6-65.1
- 9 (8) Enticing a child to enter a vehicle for immoral
10 purposes as defined in Section 13A-6-69.
- 11 (9) Soliciting a child by computer as defined in
12 Section 13A-6-110.
- 13 (10) Production of obscene matter involving a minor
14 as defined in Section 13A-12-197.
- 15 (11) Production of obscene matter as defined in
16 Section 13A-12-200.2.
- 17 (12) Parents or guardians permitting children to
18 engage in obscene matter as defined in Section 13A-12-196.
- 19 (13) Possession of obscene matter as defined in
20 Section 13A-12-200.2.
- 21 (14) Possession with intent to distribute child
22 pornography as defined in Section 13A-12-192.
- 23 (15) Treason as defined in Section 13A-11-2.
- 24 Section 5. Sections 17-3-31, 17-4-6, 17-4-60,
25 17-11-3, and 17-11-7, Code of Alabama 1975, are amended to
26 read as follows:
27 "§17-3-31.

1 "Any person who is disqualified by reason of
2 conviction of any of the offenses mentioned in Article VIII of
3 the Constitution of Alabama of 1901, except treason and
4 impeachment, whether the conviction was had in a state or
5 federal court, and who has been pardoned, may be restored to
6 citizenship with the right to vote by the State Board of
7 Pardons and Paroles when specifically expressed in the pardon.
8 If otherwise qualified, such person shall be permitted to
9 register or reregister as an elector upon submission of a copy
10 of the pardon document to the board of registrars of the
11 county of his or her residence. ~~In addition, any person who
12 has been granted a Certificate of Eligibility to Register to
13 Vote by the Board of Pardons and Paroles pursuant to Section
14 15-22-36.1, shall be permitted to register or reregister as an
15 elector upon submission of a copy of the certificate to the
16 board of registrars of the county of his or her residence.~~

17 "§17-4-6.

18 "(a) To continuously and automatically identify the
19 names of persons to be purged from the voters' list, the
20 appropriate state departments or agencies shall provide to the
21 Secretary of State, as such information is recorded by the
22 departments, the names and identifying information set out
23 below of any person age 18 or older who: ~~(1) Who has~~ died,
24 with date of birth and Social Security number (if such number
25 is known), last known address with county of residence, and
26 date of death, as provided by the Office of Vital Statistics
27 of the State Department of Public Health.

1 ~~"(2) Has been convicted of a felony, with date of~~
2 ~~birth and Social Security number (if such number is known),~~
3 ~~last known address with county of residence, and date of~~
4 ~~conviction, as provided by the Alabama Criminal Justice~~
5 ~~Information Systems.~~

6 (b) The Secretary of State, upon the receipt of the
7 information pursuant to subsection (a), shall disseminate the
8 information to the appropriate board of registrars to
9 facilitate the continuous purgation of the statewide voter
10 registration list.

11 "§17-4-60.

12 (a) The Secretary of State shall be the primary
13 state official for federal contact for the implementation of
14 the National Voter Registration Act of 1993 and the Help
15 America Vote Act of 2002.

16 (b) The State Department of Public Safety shall
17 integrate voter registration into driver's license application
18 and renewal or updating procedures and shall coordinate its
19 driver's license database with the state voter registration
20 list and the Social Security Administration's database in
21 accordance with the Help America Vote Act of 2002.

22 (c) The state through the Secretary of State's
23 office shall allow citizens to register to vote by mail. The
24 voter registration application may be designed by the
25 Secretary of State provided it meets the requirements of the
26 National Voter Registration Act of 1993. The Secretary of
27 State may, however, choose to use federally prescribed forms.

1 "(d) State agencies which provide food stamps,
2 Medicaid, services related to the Women and Infant Children
3 program (WIC), services related to Aid to Families with
4 Dependent Children (AFDC), and agencies providing services to
5 the disabled shall provide voter registration opportunities to
6 their clientele in accordance with the National Voter
7 Registration Act of 1993.

8 "(e) Recruitment offices of the Armed Forces of the
9 United States shall provide voter registration opportunities
10 to their clientele in accordance with the National Voter
11 Registration Act of 1993. The Department of Corrections and,
12 subject to their agreement under 42 U.S.C.
13 §1973gg-5(a)(3)(B)(ii), the federal correctional institutions
14 in Alabama shall provide these same voter registration
15 opportunities to persons in their custody, as part of the
16 release process leading to their discharge from a correctional
17 facility.

18 "(f) Other public offices and agencies which may
19 provide the voter registration services provided by the
20 National Voter Registration Act of 1993 include public
21 libraries, public schools, offices of municipal clerks,
22 probate offices, state and local revenue offices, unemployment
23 compensation offices, offices providing services to the
24 disabled other than those required in subsection (d) to
25 provide voter registration services, and federal and
26 nongovernmental offices which agree to provide the voter
27 registration services.

1 "(g) Voter registration, confirmation documents, and
2 any other documents necessary to be prescribed by the
3 Secretary of State to meet the requirements of the National
4 Voter Registration Act of 1993 shall be prepared and furnished
5 as provided for in Section 17-3-57.

6 "(h) The Secretary of State, by rule, may prescribe
7 forms in furtherance of state election laws deemed helpful to
8 disabled voters and voters speaking an alternative language to
9 English who, according to the most recent decennial census,
10 comprise more than five percent of the voting age population
11 for any county in Alabama.

12 "§17-11-3.

13 "(a) Any qualified elector of this state may apply
14 for and vote an absentee ballot by mail or by hand delivery,
15 as provided in Sections 17-11-5 and 17-11-9, in any primary,
16 general, special, or municipal election, if he or she makes
17 application in writing therefor not less than five days prior
18 to the election in which he or she desires to vote and meets
19 one of the following requirements:

20 "(1) The person will be out of the county or the
21 state, or the municipality for municipal elections, on
22 election day.

23 "(2) The person has any physical illness or
24 infirmity which prevents his or her attendance at the polls,
25 whether he or she is within or without the county on the day
26 of the election.

1 "(3) The person works on a shift which has at least
2 10 hours which coincide with the hours the polls are open at
3 his or her regular polling place.

4 "(4) The person is enrolled as a student at an
5 educational institution located outside the county of his or
6 her personal residence attendance at which prevents his or her
7 attendance at the polls.

8 "(5) The person is a member of, or spouse or
9 dependent of a member of, the Armed Forces of the United
10 States or is similarly qualified to vote absentee pursuant to
11 the federal Uniformed and Overseas Citizens Absentee Voting
12 Act, 42 U.S.C. 1973ff.

13 "(6) The person has been appointed as an election
14 officer or named as a poll watcher at a polling place other
15 than his or her regular polling place.

16 "(7) The person is incarcerated but remains eligible
17 to vote.

18 "(b) An applicant for an absentee ballot who is a
19 member of the Armed Forces of the United States, including the
20 Alabama National Guard, the United States Naval Reserves, the
21 United States Air Force Reserves, and the United States Army
22 Reserve on active duty or active duty for training or an
23 applicant who is the spouse of any member of the armed forces
24 or any other applicant qualified to vote absentee pursuant to
25 the federal Uniformed and Overseas Citizens Absentee Voting
26 Act, 42 U.S.C. 1973ff, may make application for an absentee
27 ballot by filling out the federal postcard application form,

1 authorized and provided for under the provisions of "The
2 Federal Voting Assistance Act of 1955," Public Law 296,
3 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress
4 1st Session.

5 "(c) Any registered elector who requires emergency
6 treatment of a licensed physician within five days of an
7 election may apply for an emergency absentee ballot for the
8 election and may vote by returning the absentee ballot no
9 later than noon on the day the election is held. The attendant
10 physician shall describe and certify the circumstances as
11 constituting an emergency on a special form designed by the
12 Secretary of State and provided by his or her office to local
13 absentee election managers. The special form shall be attached
14 to the application.

15 "(d) Any registered elector whose name appears on
16 the poll list of qualified voters may vote by an emergency
17 absentee ballot if he or she is required by his or her
18 employer under unforeseen circumstances to be out of the
19 county on an emergency business trip on election day. Under
20 such circumstances, the applicant shall apply for an emergency
21 absentee ballot at the office of the absentee election manager
22 no later than the close of the business day one day prior to
23 the election. The applicant shall complete and file an
24 application form designed by the Secretary of State for
25 emergency absentee voters. The form shall contain an affidavit
26 which the applicant shall sign or swear acknowledging that he
27 or she was not aware of the out-of-county business requirement

1 prior to five days before the election. An applicant who meets
2 the requirements of this subsection may vote by an emergency
3 absentee ballot. After voting the ballot, the voter shall hand
4 the ballot to the absentee election manager.

5 "(e) Notwithstanding any other provision of
6 otherwise applicable law, in the event more than one absentee
7 ballot is cast in the name of the single voter, whether any
8 such multiple ballot is cast by mail or otherwise, none of the
9 affidavit envelopes containing the multiple ballots shall be
10 opened, and none of the multiple ballots shall be counted,
11 except in the event of an election contest, upon the order of
12 the election contest tribunal. Upon the conclusion of an
13 election contest or, in the event no such contest is filed,
14 upon the expiration of time for filing such a contest, the
15 multiple ballots shall be provided to the district attorney,
16 with photocopies provided to the state Attorney General, for
17 such investigation, prosecution, or other action as may be
18 appropriate under applicable law.

19 "§17-11-7.

20 "(a) Each absentee ballot shall be accompanied by an
21 envelope upon which shall be printed an affidavit.

22 "(b) With respect to an absentee ballot cast
23 pursuant to Section 17-11-3, the affidavit shall read as
24 follows:

25 ""State of Alabama

26 "County of _____

27 "I, the undersigned, do swear (or affirm) that:

1 "___ I work a required workplace shift which has at
2 least 10 hours which coincide with the polling hours at my
3 regular polling place.

4 "___ I am a student at an educational institution
5 located outside the county of my permanent residence and am
6 therefore unable to vote at my usual polling place on election
7 day.

8 "___ I am a member of or a spouse or dependent of a
9 member of the Armed Forces of the United States or am
10 otherwise entitled to vote pursuant to the federal Uniformed
11 and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

12 "___ I have been appointed as an election officer at
13 a polling place which is not my regular polling place.

14 "___ I am eligible to vote because I have not been
15 convicted of a felony involving moral turpitude, but I will be
16 incarcerated and unable to vote in person on election day.

17 "I further swear (or affirm) that I have not voted
18 nor will I vote in person in the election to which this ballot
19 pertains.

20 "I have marked the enclosed absentee ballot
21 voluntarily and I have read or had read to me and understand
22 the instructions accompanying this ballot and I have carefully
23 complied with such instructions.

24 "Moreover, I further swear (or affirm) that all of
25 the information given above is true and correct to the best of
26 my knowledge and that I understand that by knowingly giving
27 false information so as to vote illegally by absentee ballot

1 that I shall be guilty of a misdemeanor which is punishable by
2 a fine not to exceed one thousand dollars (\$1,000) or confine-
3 ment in the county jail for not more than six months, or both.

4 _____

5 (Signature or mark of voter.)

6 _____

7 (Printed name of voter.)

8 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF
9 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF
10 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO
11 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE
12 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

13 "Sworn to and subscribed before me this _____ day of
14 _____, 2__.

15 "I certify that the affiant is known (or made known)
16 to me to be the identical party he or she claims to be.

17 _____ (Signature of official)

18 (Title of official)

19 _____

20 (Address of official)

21 OR

1 1st Witness _____

2 Signature

3 _____

4 Print name

5 _____

6 Address

7 _____

8 City Zip Code

9 2nd Witness _____

10 Signature

11 _____

12 Print name

13 _____

14 Address

15 _____"

16 City Zip Code"

17 Section 6. There is created a temporary joint
18 legislative oversight committee to exist for a period of three
19 years following the effective date of this act. The committee
20 shall consist of three members of the Legislature, one chosen
21 by the Governor, who shall serve as chair, one by the

1 Lieutenant Governor, and one by the Speaker of the House. The
2 Secretary of State, the Commissioner of the Department of
3 Corrections, and the Attorney General shall serve in advisory
4 capacities upon request of the committee. The committee shall
5 convene a task force of community leaders with expertise in
6 and commitment to the restoration of voting rights to people
7 who have been disfranchised because of felony convictions. The
8 committee shall hold its organizational meeting and select
9 members of the task force within 30 days after passage of this
10 act. The committee shall meet at the call of the chair or any
11 majority of members thereof, provided that the committee shall
12 meet at least once every three months. Members of the task
13 force shall be invited to all committee meetings unless a
14 majority of committee members objects. The committee may meet,
15 act, and conduct its business during the sessions of the
16 Legislature, or any recess thereof, and in the interim period
17 between sessions. The chief responsibility of the committee
18 shall be to monitor the implementation of this act. The
19 committee shall report any findings and recommendations to the
20 Legislature no later than the seventh legislative day of each
21 regular session.

22 Section 7. All laws or parts of laws which conflict
23 with this act are repealed, and Section 15-22-36.1, Code of
24 Alabama 1975, is specifically repealed.

25 Section 8. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law. Upon taking effect,

1 it shall have retroactive application to all persons who are
2 eligible to vote under its terms, regardless of whether they
3 were convicted or discharged from incarceration prior to its
4 effective date.