

**FIFTY-FIFTH LEGISLATURE
FIRST SESSION, 2021**

March 16, 2021

Mr. Speaker:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 114

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, after the semicolon, insert "ENACTING THE POST-CONVICTION RIGHTS RESTORATION ACT TO CHANGE THE PROCEDURE FOR RESTORATION OF RIGHTS TO VOTE; PRESCRIBING DUTIES TO THE CORRECTIONS DEPARTMENT AND THE SECRETARY OF STATE;".

2. On page 1, line 12, strike "AND REPEALING" and insert in lieu thereof ", REPEALING AND ENACTING".

3. On page 10, between lines 1 and 2, insert the following new sections:

"SECTION 3. Section 31-13-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-14, as amended) is repealed and a new Section 31-13-1 NMSA 1978 is enacted to read:

"31-13-1. [NEW MATERIAL] SHORT TITLE--POST-CONVICTION RIGHTS RESTORATION ACT.--Chapter 31, Article 13 NMSA 1978 may be cited as the "Post-Conviction Rights Restoration Act"."

SECTION 4. A new Section 31-13-2 NMSA 1978 is enacted to read:

"31-13-2. [NEW MATERIAL] DEFINITIONS.--As used in the Post-Conviction Rights Restoration Act:

A. "certificate of restoration of rights" means a certificate issued under the hand and seal of the governor of this state that operates to restore the rights of a felon within the state of New Mexico;

B. "convicted" or "conviction" means an adjudication of guilt by a court of competent jurisdiction, but does not include an adjudication of guilt:

(1) that has been overturned on appeal;

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(2) that has been expunged;

(3) for which the person convicted has received a pardon or whose rights have otherwise been restored; or

(4) by a court other than the state courts of New Mexico if the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures consistent with requirements of due process of law compatible with those guaranteed criminal defendants in this state;

C. "office of trust" means an office of the state or a political subdivision of the state for which a person holding or serving in that office is subject to:

(1) election;

(2) confirmation by the senate;

(3) impeachment by the house of representatives;

or

(4) discipline by the judicial standards commission; and

D. "pardon" means nullification of punishment and other legal consequences of a crime granted pursuant to the laws of the jurisdiction governing the court system in which the crime was adjudicated."

SECTION 5. A new Section 31-13-3 NMSA 1978 is enacted to read:

"31-13-3. [NEW MATERIAL] LOSS AND RESTORATION OF RIGHTS--CONVICTION OF CRIMES CLASSIFIED AS FELONIES IN OTHER JURISDICTIONS.--Any right that is lost as a result of a conviction is automatically restored if the crime:

A. is classified as a felony at the time of the adjudication by the jurisdiction governing the court system that adjudicated the offense; and

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B. is not classified or ceases to be classified as a felony pursuant to the laws of this state."

SECTION 6. A new Section 31-13-4 NMSA 1978 is enacted to read:

"31-13-4. [NEW MATERIAL] PARDONS--CERTIFICATES OF RESTORATION OF RIGHTS.--Except as otherwise provided in the Post-Conviction Rights Restoration Act, the rights of a person to serve on a jury, to vote and to hold an office of trust if convicted of a felony crime by:

A. a court of this state are restored when the person receives a pardon or other restoration of rights pursuant to the laws of this state, including the restoration of rights by operation of law resulting from the satisfaction of conditions of deferment and dismissal of all charges of a person with a deferred sentence, or when the governor of this state issues a certificate of restoration of rights;

B. a court of another state are restored when the person receives a pardon or other restoration of rights pursuant to the laws of that state or when the governor of this state issues a certificate of restoration of rights;

C. a federal court are restored when the person receives a pardon or other restoration of rights pursuant to federal law or when the governor of this state issues a certificate of restoration of rights; or

D. a court of a foreign country or of a jurisdiction within that country are restored when the person receives a pardon or other restoration of rights pursuant to the laws of that country or jurisdiction within that country or when the governor of this state issues a certificate of restoration of rights."

SECTION 7. A new Section 31-13-5 NMSA 1978 is enacted to read:

"31-13-5. [NEW MATERIAL] LOSS AND RESTORATION OF THE RIGHT TO SERVE ON A JURY.--A person who is convicted is ineligible to serve on a jury in this state upon a felony conviction. That person's

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right to serve on a jury is restored as provided pursuant to Section 31-13-3 NMSA 1978 or when that person:

A. completes all conditions of deferment imposed as part of a deferred sentence;

B. completes all conditions of the sentence imposed for the felony, including conditions of probation and parole;

C. receives a pardon or other restoration of rights pursuant to the laws of the jurisdiction governing the court that adjudicated the offense; or

D. is issued a certificate of restoration of rights by the governor of this state."

SECTION 8. A new Section 31-13-6 NMSA 1978 is enacted to read:

"31-13-6. [NEW MATERIAL] LOSS AND RESTORATION OF THE RIGHT TO VOTE.--A person is ineligible to vote if that person is imprisoned for the conviction of a felony in a correctional facility under the jurisdiction of a state, the United States of America or a foreign government. That person's right to vote is restored as provided pursuant to Section 31-13-3 NMSA 1978 or when that person:

A. is released from the correctional facility where that person was imprisoned for conviction of the felony;

B. receives a pardon or other restoration of rights pursuant to the laws of the jurisdiction governing the court system that adjudicated the offense; or

C. is issued a certificate of restoration of rights by the governor of this state."

SECTION 9. A new Section 31-13-7 NMSA 1978 is enacted to read:

"31-13-7. [NEW MATERIAL] LOSS AND RESTORATION OF THE RIGHT TO HOLD AN OFFICE OF TRUST.--A person is ineligible to hold an office of trust if that person is convicted of a felony. That person's

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right to hold an office of trust is restored as provided pursuant to Section 31-13-3 NMSA 1978 or when that person:

A. receives a restoration of rights by operation of law resulting from the satisfaction of conditions of deferment and dismissal of all charges of a person with a deferred sentence pursuant to the laws of this state;

B. receives a pardon or other restoration of rights pursuant to the laws of the jurisdiction governing the court that adjudicated the offense; or

C. is issued a certificate of restoration of rights by the governor of this state."

SECTION 10. Section 1-4-24 NMSA 1978 (being Laws 1969, Chapter 240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--
GROUNDS.--The county clerk shall cancel certificates of registration for the following reasons:

A. death of the voter;

B. [a-felony-conviction] imprisonment of the voter in a correctional facility for the conviction of a felony;

C. at the request of the voter; or

D. at the direction of the board of registration."

SECTION 11. Section 1-4-27.1 NMSA 1978 (being Laws 2001, Chapter 46, Section 1, as amended) is repealed and a new Section 1-4-27.1 NMSA 1978 is enacted to read:

"1-4-27.1. [NEW MATERIAL] INMATES INELIGIBLE TO VOTE OR REGISTER TO VOTE--ELIGIBILITY TO VOTE AND REGISTER TO VOTE UPON RELEASE.--

A. A voter is ineligible to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction. Except as provided in this section, a qualified elector is

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ineligible to register to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction.

B. At the time an inmate is preparing for release from a state correctional facility, if the inmate is a voter or qualified elector, the inmate shall be given an opportunity to register to vote, or update an existing registration, by means of a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody. If the inmate does not conduct a transaction with the motor vehicle division prior to the inmate's release from custody, the corrections department shall provide the inmate an opportunity to register to vote or update an existing registration by means of an online portal provided by the secretary of state or, if such a portal is not available, by means of a paper registration form.

C. The voter registration of a voter who is an inmate may be canceled in any manner provided for in Chapter 1, Article 4 NMSA 1978. In addition to being ineligible to vote, a voter who is an inmate shall be considered to have changed the voter's address from the voter's precinct of registration, pursuant to Section 1-4-28 NMSA 1978, and shall follow the procedures of that section; provided that the secretary of state shall not send a confirmation mailing to a voter who is an inmate.

D. The corrections department shall deliver to the secretary of state information and data necessary to carry out the provisions of this section. The secretary of state shall maintain current information in the voter registration electronic management system on the ineligibility status of an inmate to vote or register to vote pursuant to this section, as well as an inmate's eligibility status to vote upon release and to register to vote or update an existing voter registration while preparing for release. Notwithstanding a person's status in the voter registration electronic management system, a voter or a qualified elector who appears personally before a county clerk, the clerk's authorized representative or a precinct board member is presumed eligible to vote or register to vote pursuant to the provisions of this section."

SECTION 12. Section 38-5-1 NMSA 1978 (being Laws 1969, Chapter 222, Section 1, as amended) is amended to read:

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"38-5-1. QUALIFICATION OF JURORS.--[A.] A person who is at least eighteen years of age, a United States citizen, a resident of New Mexico residing in the county for which a jury may be convened is eligible and may be summoned for service as a juror by the courts, unless the person is incapable of rendering jury service because of:

[~~(1)~~] A. physical or mental illness or infirmity; [~~or~~

~~(2)~~] B. undue or extreme physical or financial hardship;

~~[B. A person who was convicted of a felony and who meets all other requirements for eligibility may be summoned for jury service if the person has successfully completed all conditions of the sentence imposed for the felony, including conditions for probation or parole.] or~~

C. conviction of a felony, except as otherwise provided by the Post-Conviction Rights Restoration Act."

4. Renumber the succeeding section accordingly.

5. On page 10, between lines 3 and 4, insert the following section:

"SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.".,

Respectfully submitted,

Gail Chasey, Chair

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 3 Against
Yes: 7
No: Nibert, Rehm, Townsend
Excused: Alcon, Cook
Absent: None

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