

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: CS/SB 2230

INTRODUCER: Ethics and Elections Committee and Senator Wilson

SUBJECT: Restoration of Voting Rights Act

DATE: April 19, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Rubinas</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides for the automatic restoration of a former felon's right to vote following the completion of the terms and conditions of his or her sentence of incarceration and community supervision, except for felons convicted of certain reprehensible crimes or whose impeachment has resulted in conviction who must seek restoration through the clemency process. The bill also contains certain notice and education requirements aimed at assisting former convicted felons in exercising their right to register to vote.

The bill takes effect on the effective date of an amendment to the State Constitution which authorizes, or removes impediments to, the provisions of this bill.

This bill creates section 944.294 of the Florida Statutes, and amends sections 97.052, 97.053, 98.045, 98.093, 940.061, 944.292, 944.293 and 944.705, Florida Statutes, to conform.

II. Present Situation:

The restoration of the civil rights of a convicted felon, which includes the right to register to vote, is a form of executive clemency --- a power granted by the Florida Constitution to the Governor with the consent of at least two members of the Cabinet.¹ The Florida Constitution specifically bars any person convicted of a felony from being qualified to vote or hold office until that person's civil rights have been restored.² Florida Statutes implement the constitutional

¹ Article IV, s. 8(a), Florida Constitution.

² Article VI, s. 4(a), Florida Constitution.

bar against felons voting by providing that any person convicted of a felony, who has not had his or her right to vote restored pursuant to law, may not register or vote.³

The FAQ section of Board of Executive Clemency's web site provides a summary of the basic procedure for the restoration of civil rights, including the right to vote:

1. If I am released from custody or supervision from the Florida Department of Corrections, how can my civil rights be restored?

At the completion of your sentence, the Florida Department of Corrections will automatically submit an electronic application for you to the Parole Commission for eligibility review for restoration of civil rights without a hearing. If determined eligible, your name will go to the Clemency Board for a 30-day review, and if no objection from two or more Board Members is received, your rights will be restored and a certificate of restoration of civil rights will be mailed to your last known address. If you are determined ineligible by the Commission, or receive objections from the Board, you will be notified that the restoration process may continue if you contact the Office of Executive Clemency and request a hearing and agree to participate in the investigative process.

Each of the fifty states has statutes governing the restoration of civil rights of convicted felons. These varied approaches range from a life time ban on voting in some states to allowing felons to vote while incarcerated in other states.⁴

III. Effect of Proposed Changes:

Section 1. Provides a short title.

Section 2. Contains a list of legislative findings and defines the purpose of the bill.

Section 3. Creates s. 944.294, F.S.; provides for the automatic restoration of the right to vote for certain former felons who complete the terms and conditions of their sentence of incarceration and community supervision; excludes former felons convicted of crimes relating to murder, aggravated manslaughter of a child, sexual battery, procuring a person under 18 for prostitution, selling or buying minors into sex trafficking or prostitution, incest, sexual performance by a child, selling or buying minors, and treason, or whose impeachment has resulted in conviction; requires a court to notify convicted felony defendants of how their voting rights can be restored; mandates that the Secretary of State ensure that those persons who become eligible to vote upon completion of their sentence face no continued barriers to voter registration; requires the Secretary of State to develop an educational program ensuring that (1) judges are informed of their new notice obligations, (2) that the Department of Corrections is prepared to assist people with registering to vote in anticipation of the completion of their sentence, including forwarding completed voter registration forms to the appropriate voter registration official, and (3) that

³ Section 97.041(2)(b), F.S.

⁴ See The Florida House of Representatives interim project, *Report on the Restoration of Felons' Voting Rights in Florida*, December 16, 2005.

accurate and complete information about the voting rights of convicted criminals is made available through a single publication to government officials and the public.

Sections 4, 5, and 6. Amends ss. 97.052, 97.053, and 98.045, F.S.; technical; makes conforming changes to the Florida Election Code.

Section 7. Amends s. 98.093, F.S.; requires the Department of Corrections to furnish a monthly list to the Department of State of persons who have been released from incarceration and community supervision who have completed all terms and conditions of their sentence. The list must include the person's name, address, date of birth, race, sex, social security number, Department of Correction identification number, and associated FDLE felony conviction record number.

Section 8. Amends s. 940.061, F.S.; requires the Department of Corrections to inform and educate inmates and offenders on community supervision about the restoration of voting rights and assist eligible inmates and offenders with the completion of a voter registration application unless the person declines such assistance.

Section 9. Amends s. 944.292, F.S.; technical; conforming.

Section 10. Amends s. 944.293, F.S.; adopts extensive procedures for the Department of Corrections with respect to providing notice and assisting felons with voter registration proximate to their release from incarceration and community supervision, to conform.

Section 11. Amends s. 944.705, F.S.; technical; conforming.

Section 12. Contains a contingent effective date, making the Act effective on the effective date of an amendment to the State Constitution which authorizes, or removes impediment to, enactment of the Act by the Legislature; providing for retroactive application.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The educational, notice and procedural requirements in the bill will result in indeterminate fiscal costs to the Department of State, Department of Corrections, and county supervisors of elections. This may be offset somewhat by a reduced workload for the Office of Executive Clemency.

VI. Technical Deficiencies:

As specified by the contingent effective date in Section 12 of the bill, a constitutional amendment is necessary in order to give effect to the provisions of this bill. CS/SB 2230, therefore, is an “implementing bill.”

Although Senate bill history does not identify a constitutional amendment linked to CS/SB 2230, SJR 1082 by Senator Dawson or SJR 2734 by Senator Siplin could serve to provide the necessary underlying constitutional amendment proposal.

VII. Related Issues:

On November 14, 2005, the U.S. Supreme Court denied certiorari and refused to hear a Florida case concerning the restoration of a felon’s voting rights. In refusing to accept the case the Court upheld Florida’s 160 year old law which created a life long ban on convicted felons voting unless those voting rights are restored by the governor.⁵

This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁵ Johnson v. Bush, 126 S.Ct. 650, 2005 WL 3027725 (U.S.).

VIII. Summary of Amendments:

None.

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