

By Senator Hill

1-03211-08

20082240__

1 A bill to be entitled
2 An act relating to voting rights; amending s. 14.28,
3 F.S.; requiring that records developed or maintained
4 by a state agency pursuant to an investigation by the
5 Board of Executive Clemency be released to the person
6 who is the subject of such investigation or his or her
7 legal representative; authorizing public access to
8 certain data; creating s. 97.017, F.S.; requiring that
9 an authorized agent of the Division of Elections
10 provide to the Governor the necessary voter
11 registration applications and other forms required for
12 the restoration of a convicted felon's voting rights
13 before the convicted felon is released from
14 supervision; requiring the authorized agent to perform
15 certain tasks; amending s. 98.045, F.S.; providing
16 that any information indicating that a person's civil
17 rights have been restored through the executive
18 clemency process be considered a written request from
19 that person to have his or her name placed back into
20 the statewide voter registration system; requiring
21 that the supervisor of elections perform certain
22 tasks; amending s. 98.065, F.S.; requiring that a
23 supervisor of elections who receives certain
24 information from the Office of Executive Clemency send
25 an address-confirmation notice to the address at which
26 the subject voter was last registered; providing for
27 the immediate addition of names to the statewide voter
28 registration system under certain circumstances;
29 amending s. 98.0755, F.S.; providing an exemption from

1-03211-08

20082240__

30 payment of costs for a trial in which a person appeals
31 a determination of ineligibility to register to vote;
32 amending s. 98.081, F.S.; providing for the
33 restoration of the names of certain individuals to the
34 statewide voter registration system under certain
35 circumstances, even if the registration period for a
36 given election is closed; amending s. 98.093, F.S.;
37 including a list of persons whose civil rights have
38 been restored among the required information that must
39 be furnished by state and local government agencies to
40 the Department of State; requiring that the department
41 identify certain individuals upon receipt of such
42 list; requiring that the board furnish certain
43 information to each supervisor of elections; amending
44 s. 104.051, F.S.; providing that any department
45 employee who attempts to influence or interfere with
46 any elector voting a ballot commits a felony of the
47 third degree; creating s. 940.09, F.S.; requiring that
48 the office provide a voter registration applicant who
49 has been granted clemency with a certified copy of the
50 applicant's certificate of rights restoration free of
51 charge and without delay; creating s. 940.066, F.S.;
52 requiring that the division inform and educate certain
53 persons about voting and the voting process, and
54 provide such persons with voter registration
55 applications on a certain date; amending s. 945.10,
56 F.S.; authorizing access to certain data, even if such
57 data were considered confidential when originally

1-03211-08

20082240__

58 transferred to the office; providing an effective
59 date.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Section 14.28, Florida Statutes, is amended to
64 read:

65 14.28 Executive clemency.--All records developed or
66 received by any state entity pursuant to a Board of Executive
67 Clemency investigation shall be confidential and exempt from the
68 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
69 Constitution. However, such records shall ~~may~~ be released to the
70 person who is the subject of such investigation or his or her
71 legal representative upon request by such person or legal
72 representative upon the approval of the Governor. This section
73 does not deny any person access to data that is transferred to
74 the Office of Executive Clemency regarding felons whose civil
75 rights have been restored.

76 Section 2. Section 97.017, Florida Statutes, is created to
77 read:

78 97.017 Initiation of restoration of voting rights for those
79 persons whose civil rights have been restored.--Before a
80 convicted felon is discharged from supervision, an authorized
81 agent of the Division of Elections shall provide to the Governor
82 the necessary voter registration applications and other forms
83 required for the restoration of that individual's voting rights.
84 The authorized agent shall assist the offender in completing
85 these forms and shall ensure that the application and all

1-03211-08

20082240__

86 necessary materials are forwarded to the department after the
87 person is granted executive clemency or pardon.

88 Section 3. Present subsections (3), (4), and (5) of section
89 98.045, Florida Statutes, are renumbered as subsections (4), (5),
90 and (6), respectively, and a new subsection (3) is added to that
91 section, to read:

92 98.045 Administration of voter registration.--

93 (3) RESTORATION OF REGISTERED VOTERS.--

94 (a) Any information indicating that a person has had his or
95 her civil rights restored through the executive clemency process
96 after a registered voter's name is removed from registration list
97 pursuant to s. 98.065 or s. 98.075 shall be considered as a
98 written request from that person to have his or her name restored
99 in the statewide voter registration system. The corresponding
100 supervisor of elections shall verify the continued eligibility of
101 such person to vote in that county.

102 (b) The supervisor of elections for each county shall
103 forward voter registration information to any person to whom
104 clemency has been granted.

105 Section 4. Paragraph (a) of subsection (4) and subsection
106 (5) of section 98.065, Florida Statutes, are amended to read:

107 98.065 Registration list maintenance programs.--

108 (4) (a) If the supervisor receives change-of-address
109 information pursuant to the activities conducted in subsection
110 (2), from jury notices signed by the voter and returned to the
111 courts, from the Department of Highway Safety and Motor Vehicles
112 or the Office of Executive Clemency, or from other sources, which
113 information indicates that the legal address of a registered
114 voter might have changed, the supervisor shall send by

1-03211-08

20082240__

115 forwardable return-if-undeliverable mail an address confirmation
116 notice to the address at which the voter was last registered. A
117 supervisor may also send an address confirmation notice to any
118 voter who the supervisor has reason to believe has moved from his
119 or her legal residence.

120 (5) A notice may not be issued pursuant to this section and
121 a voter's name may not be removed from the statewide voter
122 registration system later than 90 days before ~~prior to~~ the date
123 of a federal election. However, this section does not preclude
124 the removal or addition of the name of a voter from the statewide
125 voter registration system at any time upon the voter's written
126 request, by reason of the voter's death, ~~or~~ upon a determination
127 of the voter's ineligibility as provided in s. 98.075(7), or upon
128 the granting of executive clemency.

129 Section 5. Section 98.0755, Florida Statutes, is amended to
130 read:

131 98.0755 Appeal of determination of ineligibility.--Appeal
132 of the supervisor's determination of ineligibility pursuant to s.
133 98.075(7) may be taken to the circuit court in and for the county
134 where the person was registered. Notice of appeal must be filed
135 within the time and in the manner provided by the Florida Rules
136 of Appellate Procedure and acts as supersedeas. Trial in the
137 circuit court is de novo and governed by the rules of that court.
138 Unless the person can show that his or her name was erroneously
139 or illegally removed from the statewide voter registration
140 system, that his or her name was improperly or illegally omitted
141 from the voter registration system upon the proper granting of
142 executive clemency and forwarding of information to election
143 officials, or that he or she is indigent, the person must bear

1-03211-08

20082240__

144 the costs of the trial in the circuit court. Otherwise, the cost
145 of the appeal must be paid by the supervisor of elections.

146 Section 6. Section 98.081, Florida Statutes, is amended to
147 read:

148 98.081 Names removed from the statewide voter registration
149 system; restrictions on reregistering; recordkeeping; restoration
150 of erroneously or illegally removed names.--

151 (1) If ~~When~~ the name of any elector is removed from the
152 statewide voter registration system pursuant to s. 98.065 or s.
153 98.075, the elector's original registration application shall be
154 retained by the supervisor of elections having custody of the
155 application. Alternatively ~~As alternatives~~, registrations removed
156 from the statewide voter registration system may be microfilmed
157 and such microfilms substituted for the original registration
158 applications. If; ~~or, when~~ voter registration information,
159 including the voter's signature, is maintained digitally or on
160 electronic, magnetic, or optic media, such stored information may
161 be substituted for the original registration application. Such
162 microfilms or stored information shall be retained by the
163 supervisor of elections having custody. If ~~In the event~~ the
164 original registration applications are microfilmed or maintained
165 digitally or on electronic or other media, such originals may be
166 destroyed in accordance with the schedule approved by the Bureau
167 of Archives and Records Management of the Division of Library and
168 Information Services of the department.

169 (2) If ~~When~~ the name of any elector has been erroneously or
170 illegally removed from the statewide voter registration system,
171 the name of the elector shall be restored by a voter registration

1-03211-08

20082240__

172 official upon satisfactory proof, even though the registration
173 period for that election is closed.

174 (3) If the name of any eligible person has not been
175 properly restored or added to the statewide voter registration
176 system, a voter registration official shall restore the name of
177 that eligible person immediately upon satisfactory proof of
178 clemency or other qualifying basis, even if the registration
179 period for that election is closed.

180 Section 7. Section 98.093, Florida Statutes, is amended to
181 read:

182 98.093 Duty of officials to furnish lists of deceased
183 persons, persons adjudicated mentally incapacitated, ~~and~~ persons
184 convicted of a felony, and persons whose civil rights have been
185 restored.--

186 (1) In order to ensure the maintenance of accurate and
187 current voter registration records, it is necessary for the
188 department to receive certain information from state and federal
189 officials and entities. The department and supervisors of
190 elections shall use the information provided from the sources in
191 subsection (2) to maintain the voter registration records.

192 (2) To the maximum extent feasible, state and local
193 government agencies shall facilitate provision of information and
194 access to data to the department, including, but not limited to,
195 databases that contain reliable criminal records and records of
196 deceased persons. State and local government agencies that
197 provide such data shall do so without charge if the direct cost
198 incurred by those agencies is not significant.

199 (a) The Department of Health shall furnish monthly to the
200 department a list containing the name, address, date of birth,

1-03211-08

20082240__

201 date of death, social security number, race, and sex of each
202 deceased person 17 years of age or older.

203 (b) Each clerk of the circuit court shall furnish monthly
204 to the department a list of those persons who have been
205 adjudicated mentally incapacitated with respect to voting during
206 the preceding calendar month, a list of those persons whose
207 mental capacity with respect to voting has been restored during
208 the preceding calendar month, and a list of those persons who
209 have returned signed jury notices during the preceding months to
210 the clerk of the circuit court indicating a change of address.
211 Each list shall include the name, address, date of birth, race,
212 sex, and, whichever is available, the Florida driver's license
213 number, Florida identification card number, or social security
214 number of each such person.

215 (c) Upon receipt of information from the United States
216 Attorney, listing persons convicted of a felony in federal court,
217 the department shall use such information to identify registered
218 voters or applicants for voter registration who may be
219 potentially ineligible based on information provided in
220 accordance with s. 98.075.

221 (d) The Department of Law Enforcement shall identify those
222 persons who have been convicted of a felony who appear in the
223 voter registration records supplied by the statewide voter
224 registration system, in a time and manner that enables the
225 department to meet its obligations under state and federal law.

226 (e) The Board of Executive Clemency shall furnish monthly
227 to the department and each supervisor of elections a list of
228 those persons granted clemency in the preceding month or any
229 updates to prior records which have occurred in the preceding

1-03211-08

20082240__

230 month. The list shall contain the Board of Executive Clemency
231 case number, name, address, telephone number, date of birth,
232 race, sex, social security number, if available, and references
233 to record identifiers assigned by the Department of Corrections,
234 a unique identifier of each clemency case, and the effective date
235 of clemency of each person.

236 (f) The Department of Corrections shall furnish monthly to
237 the department a list of those persons transferred to the
238 Department of Corrections in the preceding month or any updates
239 to prior records which have occurred in the preceding month. The
240 list shall contain the name, address, date of birth, race, sex,
241 social security number, Department of Corrections record
242 identification number, and associated Department of Law
243 Enforcement felony conviction record number of each person.

244 (g) The Department of Highway Safety and Motor Vehicles
245 shall furnish monthly to the department a list of those persons
246 whose names have been removed from the driver's license database
247 because they have been licensed in another state. The list shall
248 contain the name, address, date of birth, sex, social security
249 number, and driver's license number of each such person.

250 (h) Upon receipt of a list of persons whose civil rights
251 have been restored from the Office of Executive Clemency, the
252 department shall identify formerly registered voters or
253 registrants who are now eligible to reregister.

254 (3) Nothing in this section shall limit or restrict the
255 supervisor in his or her duty to remove or restore the names of
256 persons from the statewide voter registration system pursuant to
257 s. 98.075(7) based upon information received from other sources.

1-03211-08

20082240__

258 Section 8. Subsection (4) of section 104.051, Florida
259 Statutes, is amended to read:

260 104.051 Violations; neglect of duty; corrupt practices.--

261 (4) Any supervisor, deputy supervisor, ~~or~~ election
262 employee, or department employee who attempts to influence or
263 interfere with any elector voting a ballot commits a felony of
264 the third degree, punishable as provided in s. 775.082, s.
265 775.083, or s. 775.084.

266 Section 9. Section 940.09, Florida Statutes, is created to
267 read:

268 940.09 Copy of certificate of rights restoration to be
269 furnished free of charge.--If any voter registration applicant
270 who has been granted executive clemency is required to supply a
271 copy or certified copy of the applicant's certificate of rights
272 restoration, the Office of Executive Clemency shall furnish such
273 documentation to the applicant free of charge and without delay.

274 Section 10. Section 940.066, Florida Statutes, is created
275 to read:

276 940.066 Informing persons about executive clemency and
277 restoration of civil rights.--The Division of Elections shall
278 inform and educate persons whose civil rights have been restored
279 about voting and the voting process, and provide such persons
280 with voter registration applications on the date on which
281 clemency is granted.

282 Section 11. Paragraph (i) is added to subsection (1) of
283 section 945.10, Florida Statutes, to read:

284 945.10 Confidential information.--

285 (1) Except as otherwise provided by law or in this section,
286 the following records and information held by the Department of

1-03211-08

20082240__

287 Corrections are confidential and exempt from the provisions of s.
288 119.07(1) and s. 24(a), Art. I of the State Constitution:

289 (i) This section does not prohibit access to data regarding
290 felons convicted of nonviolent offenses who have been granted
291 clemency, even if such data were considered confidential when
292 originally transferred to the Office of Executive Clemency.

293 Section 12. This act shall take effect July 1, 2008.