

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0808.01 Bob Lackner x4350

HOUSE BILL 19-1266

HOUSE SPONSORSHIP

Herod,

SENATE SPONSORSHIP

Fenberg,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE VOTING RIGHTS OF PERSONS SERVING A SENTENCE**
102 **OF PAROLE, AND IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Existing law prohibits a person serving a sentence of parole from being eligible to register to vote or to vote in any election. **Section 1** of the bill declares that the purposes of parole are served by restoring the vote to persons serving a sentence of parole.

Section 2 clarifies that, for purposes of the "Uniform Election

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Code" and for applying state constitutional provisions governing disenfranchisement during imprisonment, persons sentenced to parole have completed their "full term of imprisonment" as that term appears in the state constitution.

Section 3 makes an individual serving a sentence of parole eligible to register to vote and to vote in any election.

Section 4 requires the division of adult parole to provide an individual sentenced to parole information regarding the individual's voting rights, how the individual may register to vote and cast a ballot, and how the individual may obtain voter information materials.

Section 5 repeals existing statutory provisions permitting a person on parole to preregister to vote so that the person is automatically registered to vote after being released from parole.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) Section 10 of article VII of the state constitution states, among
5 other things, that "every such person who was a qualified elector prior to
6 such imprisonment, and who is released therefrom by virtue of a pardon,
7 or by virtue of having served out his full term of imprisonment, shall
8 without further action, be invested with all the rights of citizenship,
9 except as otherwise provided in this constitution."

10 (b) Although this constitutional language has long been used to
11 justify the deprivation of voting rights to individuals serving a sentence
12 of parole, the constitutional provision was part of the original constitution
13 of the state adopted in August 1876, and the state did not adopt parole
14 sentencing until 1899.

15 (c) The power under the constitution to criminalize conduct and
16 set the punishment for a crime rests with the legislative branch. The
17 power to define the nature and purposes of imprisonment and the nature
18 and purposes of parole also rests with the general assembly. The general

1 assembly has determined that the purposes of parole are best served by
2 restoring voting rights to persons sentenced to parole. Restoring voting
3 rights to parolees is consistent with the purpose of parole as stated in
4 section 17-22.5-102.5, Colorado Revised Statutes, and will help to
5 develop and foster in these individuals the values of citizenship that will
6 result in significant dividends to them and society as they resume their
7 places in their communities.

8 (d) In the case of *Danielson v. Dennis*, 139 P.3d 688 (Colo. 2006),
9 the Colorado supreme court held that the general assembly has the
10 authority to include parole as part of the "full term of imprisonment"
11 within the meaning of the constitutional provision, which necessarily
12 means that the general assembly is also empowered, if it so chooses, to
13 define the nature of imprisonment for crime and the nature of parole so
14 that, for purposes of implementing the right to vote, the "full term of
15 imprisonment" ends when an individual convicted of a felony is
16 sentenced to or granted parole and, therefore, leaves his or her
17 incarcerated status. It follows that if an individual's term of imprisonment
18 is at an end upon being sentenced to parole, he or she should also be
19 entitled to the full restoration of his or her voting rights at that time.

20 (2) By enacting House Bill 19-1266, enacted in 2019, the general
21 assembly intends that individuals sentenced to parole on account of a
22 felony conviction be entitled to the full restoration of their voting rights
23 and further intends that House Bill 19-1266 be liberally construed to
24 effectuate these purposes.

25 **SECTION 2.** In Colorado Revised Statutes, 1-1-104, **add** (49.3)
26 as follows:

27 **1-1-104. Definitions.** As used in this code, unless the context

1 otherwise requires:

2 (49.3) (a) "TERM OF IMPRISONMENT" OR "FULL TERM OF
3 IMPRISONMENT" MEANS THE PERIOD DURING WHICH AN INDIVIDUAL IS
4 SERVING A SENTENCE OF DETENTION OR CONFINEMENT IN ANY
5 CORRECTIONAL FACILITY, JAIL, OR OTHER LOCATION FOR A FELONY
6 CONVICTION.

7 (b) THIS SUBSECTION (49.3) APPLIES TO THIS CODE FOR THE
8 PURPOSE OF APPLYING SECTION 10 OF ARTICLE VII OF THE STATE
9 CONSTITUTION.

10 (c) "TERM OF IMPRISONMENT" OR "FULL TERM OF IMPRISONMENT"
11 DOES NOT INCLUDE THE PERIOD DURING WHICH AN INDIVIDUAL IS ON
12 PAROLE.

13 **SECTION 3.** In Colorado Revised Statutes, 1-2-103, **amend** (4)
14 as follows:

15 **1-2-103. Military service - students - inmates - persons with**
16 **behavioral or mental health disorders - confinement.** (4) No person
17 while serving a sentence of detention or confinement in a correctional
18 facility, jail, or other location for a felony conviction ~~or while serving a~~
19 ~~sentence of parole~~ is eligible to register to vote or to vote in any election.
20 ~~except that~~ A confined prisoner who is awaiting trial but has not been
21 tried or who is not serving a sentence for a felony conviction shall be
22 certified by the institutional administrator, ~~shall be permitted to~~ MAY
23 register to vote pursuant to this article 2, and may list his or her
24 confinement location as his or her ballot address in accordance with
25 section 1-2-204 (2)(f.3). AN INDIVIDUAL SERVING A SENTENCE OF PAROLE
26 IS ELIGIBLE TO REGISTER TO VOTE AND TO VOTE IN ANY ELECTION.

27 **SECTION 4.** In Colorado Revised Statutes, 17-2-102, **repeal and**

1 **reenact, with amendments,** (14) as follows:

2 **17-2-102. Division of adult parole - general powers, duties, and**
3 **functions - definition - repeal.** (14) (a) IN ADDITION TO ANY OTHER
4 DUTY SPECIFIED IN THIS SECTION, THE DIVISION OF ADULT PAROLE SHALL
5 PROVIDE AT THE INITIAL MEETING WITH AN INDIVIDUAL SENTENCED TO
6 PAROLE INFORMATION REGARDING:

7 (I) THE INDIVIDUAL'S VOTING RIGHTS;

8 (II) HOW THE INDIVIDUAL MAY REGISTER TO VOTE OR UPDATE OR
9 CONFIRM HIS OR HER VOTER REGISTRATION RECORD;

10 (III) HOW TO OBTAIN AND CAST A BALLOT; AND

11 (IV) HOW TO OBTAIN VOTER INFORMATION MATERIALS.

12 (b) AS USED IN THIS SUBSECTION (14), "VOTER INFORMATION
13 MATERIALS" MEANS THE FOLLOWING DOCUMENTS AS APPLICABLE TO THE
14 ELECTION FOR WHICH THE INDIVIDUAL SEEKS TO REGISTER AND CAST A
15 BALLOT:

16 (I) ANY FORMS USED TO REGISTER AN ELECTOR UNDER PART 2 OF
17 ARTICLE 2 OF TITLE 1;

18 (II) AN APPLICATION FOR A MAIL BALLOT PURSUANT TO SECTION
19 1-13.5-1002;

20 (III) A COPY OF THE BALLOT INFORMATION BOOKLET DESCRIBED
21 IN SECTION 1-40-124.5; AND

22 (IV) ANY MAILINGS TO ELECTORS THAT ARE DESCRIBED IN
23 SECTION 1-40-125.

24 **SECTION 5.** In Colorado Revised Statutes, 1-2-101, **repeal as**
25 **it will become effective July 1, 2019,** (3) as follows:

26 **1-2-101. Qualifications for registration - preregistration.**

27 (3) (a) ~~Notwithstanding section 1-2-103 (4), a person who is otherwise~~

1 qualified to register and is on parole may preregister and update his or her
2 preregistered information in the manner prescribed by the secretary of
3 state.

4 (b) When the secretary of state receives notification under section
5 17-2-102 (14)(d) that an individual who is preregistered under subsection
6 (3)(a) of this section has been released from parole, the individual shall
7 be automatically registered to vote.

8 (c) The registration requirements of section 1-2-201 apply to a
9 person preregistering to vote under this subsection (3).

10 **SECTION 6. Appropriation.** For the 2019-20 state fiscal year,
11 \$16,960 is appropriated to the department of state for use by the
12 information technology division. This appropriation is from the
13 department of state cash fund created in section 24-21-104 (3)(b), C.R.S.
14 To implement this act, the division may use this appropriation for
15 personal services.

16 **SECTION 7. Effective date - applicability.** This act takes effect
17 July 1, 2019, and applies to any individual seeking to register to vote or
18 to vote on or after said date.

19 **SECTION 8. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.