

House Bill 2366

Sponsored by Representative SALINAS, Senator GELSER, Representative BYNUM, Senator DEMBROW; Representatives CAMPOS, FAHEY, MARSH, REARDON, REYNOLDS, WILDE, Senators GORSEK, LIEBER, STEINER HAYWARD (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows persons convicted of felony to register to vote, update voter registration and vote in elections while incarcerated. Specifies that person's residence is where person resided prior to incarceration.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to voting by adults in custody; creating new provisions; amending ORS 137.281, 247.013 and
3 247.035; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 137.281 is amended to read:

6 137.281. (1) In any felony case, when the defendant is sentenced to a term of incarceration, the
7 defendant is deprived of all rights and privileges described in subsection (3) of this section from the
8 date of sentencing until:

9 (a) The defendant is released from incarceration; or

10 (b) The defendant's conviction is set aside.

11 (2) Subsection (1) of this section applies to any term of incarceration, whether the term of
12 incarceration was imposed as a result of conviction or as a sanction or revocation resulting from
13 the defendant's violation of the terms and conditions of probation, parole or post-prison supervision.

14 (3) The rights and privileges of which a person may be deprived under this section are:

15 (a) Holding a public office or an office of a political party or becoming or remaining a candidate
16 for either office;

17 (b) Holding a position of private trust; **or**

18 (c) Acting as a juror.[: or]

19 *[(d) Exercising the right to vote.]*

20 (4) If the court under subsection (1) of this section temporarily stays execution of sentence for
21 any purpose other than probation, the defendant nonetheless is sentenced for purposes of subsection
22 (1) of this section.

23 (5) A person convicted of any crime **committed outside Oregon** and serving a term of
24 imprisonment in any federal correctional institution in this state is deprived of the rights to register
25 to vote, update a registration or vote in any election in this state from the date of sentencing until:

26 (a) The person is discharged or paroled from imprisonment; or

27 (b) The person's conviction is set aside.

28 (6) The county clerk or county official in charge of elections in any county may cancel the
29 registration of any person serving a term of imprisonment **for an offense committed outside**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **Oregon** in any federal correctional institution in this state.

2 (7) Except as otherwise provided in ORS 10.030, the rights and privileges withdrawn by **sub-**
 3 **section (5) of** this section are restored automatically upon release from incarceration, but in the
 4 case of parole shall be automatically withdrawn upon a subsequent imprisonment for violation of the
 5 terms of the parole.

6 **SECTION 2.** ORS 247.013 is amended to read:

7 247.013. (1)(a) A qualified person shall be considered registered to vote in a county when the
 8 person's first registration in the county occurs as described in ORS 247.012.

9 **(b) A qualified person who is registered to vote and is in the physical custody of a jail,**
 10 **prison or correctional facility, including a local correctional facility as defined in ORS 169.005**
 11 **or a youth correction facility as defined in ORS 420.005, shall be considered registered to vote**
 12 **in the county of the qualified elector's last voluntary residence.**

13 (2) An elector who changes residence address from the county in which the elector is registered
 14 to a different county within the state, in order to vote in an election, must be an elector registered
 15 in the county in which the new residence address of the elector is located.

16 (3) If there is a change in any information required for registration under this chapter, and the
 17 elector has not changed residence address to another county, the registration of the elector may be
 18 updated as provided in this chapter.

19 (4) Notwithstanding subsections (2) and (3) of this section, if an elector changes residence ad-
 20 dress from the county in which the elector is registered to a different county within the state, the
 21 elector need not register again if the registration of the elector is updated.

22 (5) If the county clerk does not have evidence of a change in any information required for reg-
 23 istration under this chapter for an elector, the registration of the elector shall be considered active.

24 (6) The registration of an elector shall be considered inactive if:

25 (a) The county clerk has received evidence that there has been a change in the information re-
 26 quired for registration under this chapter; and

27 (b) The county clerk has mailed the notice described in ORS 247.563.

28 (7) The inactive registration of an elector must be updated before the elector may vote in an
 29 election.

30 **SECTION 3.** ORS 247.035 is amended to read:

31 247.035. (1) An elections official, in determining the residence and qualifications of a person of-
 32 fering to register or vote, shall consider the following rules, so far as they may be applicable:

33 (a) The person's residence shall be the place in which habitation is fixed and to which, when the
 34 person is absent, the person intends to return.

35 (b) If a person's property is split by a jurisdictional line, the person shall be registered where
 36 the residence is located. If the residence is split by a jurisdictional line, the person shall register
 37 where the greatest value of the residence is located according to county assessment and taxation
 38 records.

39 (c) A person shall not be considered to have gained a residence in any location in this state into
 40 which the person comes for temporary purposes only, without the intention of making it the person's
 41 home.

42 (d) If a person moves to another state with the intention of making a permanent home, the
 43 person shall be considered to have lost residence in this state.

44 (e) If a person goes from this state into any other state or territory and votes there, the person
 45 shall be considered to have lost residence in this state.

1 (f) A person who has left the place of the person's residence for a temporary purpose only
 2 [shall] **may** not be considered to have lost residence.

3 (2) Notwithstanding subsection (1) of this section[,];

4 (a) A person who has left the place of the person's residence for a temporary purpose only, who
 5 has not established another residence for voter registration purposes and who does not have a place
 6 in which habitation is fixed [shall] **may** not be considered to have changed or lost residence. The
 7 person may register at the address of the place the person's residence was located before the person
 8 left.

9 (b) **A person who has left the place of the person's residence as part of the person's**
 10 **confinement in a jail, prison or correctional facility, including a local correctional facility as**
 11 **defined in ORS 169.005 or a youth correction facility as defined in ORS 420.005, who has not**
 12 **established another residence for voter registration purposes, and who does not have a place**
 13 **in which habitation is fixed, may not be considered to have changed or lost residence. The**
 14 **person may register at the address of the place the person's residence was located before the**
 15 **person left.**

16 (3) An elections official may consider, but is not limited to considering, the following factors in
 17 determining residency of a person for voter registration purposes:

- 18 (a) Where the person receives personal mail;
- 19 (b) Where the person is licensed to drive;
- 20 (c) Where the person registers motor vehicles for personal use;
- 21 (d) Where any immediate family members of the person reside;
- 22 (e) The address from which the person pays for utility services; and
- 23 (f) The address from which the person files any federal or state income tax returns.

24 **SECTION 4. Section 5 of this 2021 Act is added to and made a part of ORS chapter 247.**

25 **SECTION 5. (1) The Secretary of State and the Department of Corrections, in consulta-**
 26 **tion with cities and counties that operate local correctional facilities as defined in ORS**
 27 **169.005, shall by rule establish procedures that allow:**

28 (a) **All qualified individuals who are in the physical custody of a jail, prison or**
 29 **correctional facility, including a local correctional facility as defined in ORS 169.005 or a**
 30 **youth correction facility as defined in ORS 420.005, to register to vote or update the**
 31 **individual's voter registration;**

32 (b) **All registered electors who are in the physical custody of a jail, prison or correctional**
 33 **facility, including a local correctional facility as defined in ORS 169.005 or a youth correction**
 34 **facility as defined in ORS 420.005, to receive all election materials, including ballots and**
 35 **voters' pamphlets; and**

36 (c) **All registered electors who are in the physical custody of a jail, prison or correctional**
 37 **facility, including a local correctional facility as defined in ORS 169.005 or a youth correction**
 38 **facility as defined in ORS 420.005, to cast a ballot in each election.**

39 (2) **Notwithstanding ORS 254.115, 254.125, 254.135 or any other provision of law, in imple-**
 40 **menting this section the Secretary of State may by rule authorize the preparation of ballots**
 41 **of any different weight of paper, overall size and shape or other physical criteria as is nec-**
 42 **essary to conform with postal, military, correctional or other federal state and federal stat-**
 43 **utes regarding the transportation and delivery of ballots to a jail, prison or correctional**
 44 **facility, including a local correctional facility as defined in ORS 169.005 or a youth correction**
 45 **facility as defined in ORS 420.005.**

1 **SECTION 6.** This 2021 Act takes effect on the 91st day after the date on which the 2021
2 regular session of the Eighty-first Legislative Assembly adjourns sine die.
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