

ASSEMBLY BILL NO. 108—ASSEMBLYMAN ELLIOT ANDERSON

FEBRUARY 13, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the eligibility to vote of certain persons. (BDR 24-267)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; providing that a person is not ineligible to vote because he or she has been adjudicated mentally incompetent unless a court of competent jurisdiction makes certain specific findings concerning the person's mental capacity to vote; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a person who has been adjudicated mentally incompetent is
2 not eligible to vote. (Nev. Const. Art. 2, § 1) This bill enacts a standard to be used
3 by courts to adjudicate a person mentally incompetent for the purpose of voting.
4 Under **section 1** of this bill, a person is not ineligible to vote on the ground that the
5 person has been adjudicated mentally incompetent unless a court of competent
6 jurisdiction specifically finds by clear and convincing evidence that the person
7 lacks the mental capacity to vote because he or she cannot communicate, with or
8 without accommodations, a specific desire to participate in the voting process.
9 **Section 5** of this bill specifically provides that a person for whom a court has
10 appointed a guardian retains his or her right to vote unless the court makes such a
11 finding.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 293 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *A person is not ineligible to vote on the ground that the person*
4 *has been adjudicated mentally incompetent unless a court of*
5 *competent jurisdiction specifically finds by clear and convincing*



1 *evidence that the person lacks the mental capacity to vote because*
2 *he or she cannot communicate, with or without accommodations,*
3 *a specific desire to participate in the voting process and includes*
4 *the finding in a court order.*

5 **Sec. 2.** NRS 293.540 is hereby amended to read as follows:

6 293.540 The county clerk shall cancel the registration:

7 1. If the county clerk has personal knowledge of the death of
8 the person registered, or if an authenticated certificate of the death
9 of any elector is filed in the county clerk's office.

10 2. If the ~~insanity or mental incompetence of~~ county clerk is
11 *provided a certified copy of a court order stating that the court*
12 *specifically finds by clear and convincing evidence that* the person
13 registered ~~is legally established~~ *lacks the mental capacity to vote*
14 *because he or she cannot communicate, with or without*
15 *accommodations, a specific desire to participate in the voting*
16 *process.*

17 3. Upon the determination that the person registered has been
18 convicted of a felony unless:

19 (a) If the person registered was convicted of a felony in this
20 State, the right to vote of the person has been restored pursuant to
21 the provisions of NRS 213.090, 213.155 or 213.157.

22 (b) If the person registered was convicted of a felony in another
23 state, the right to vote of the person has been restored pursuant to
24 the laws of the state in which the person was convicted.

25 4. Upon the production of a certified copy of the judgment of
26 any court directing the cancellation to be made.

27 5. Upon the request of any registered voter to affiliate with any
28 political party or to change affiliation, if that change is made before
29 the end of the last day to register to vote in the election.

30 6. At the request of the person registered.

31 7. If the county clerk has discovered an incorrect registration
32 pursuant to the provisions of NRS 293.5235, 293.530 or 293.535
33 and the elector has failed to respond or appear to vote within the
34 required time.

35 8. As required by NRS 293.541.

36 9. Upon verification that the application to register to vote is a
37 duplicate if the county clerk has the original or another duplicate of
38 the application on file in the county clerk's office.

39 **Sec. 3.** NRS 293.542 is hereby amended to read as follows:

40 293.542 Within 30 days after *a court of competent jurisdiction*
41 *issues an order stating that the court specifically finds by clear*
42 *and convincing evidence that* a person ~~is adjudicated insane or~~
43 ~~mentally incompetent by a district court, the clerk of the district~~
44 *lacks the mental capacity to vote because he or she cannot*
45 *communicate, with or without accommodations, a specific desire*



* A B 1 0 8 *

1 *to participate in the voting process, the* court shall provide a
2 certified copy of the order ~~for judgment of insanity or mental~~
3 ~~incompetency~~ to:

4 1. The county clerk of the county in which the person is a
5 resident, if the person is not a resident of the county in which the
6 district court is located; or

7 2. The registrar of voters of the county, if the person is a
8 resident of the county in which the district court is located and the
9 county has created the office of registrar of voters pursuant to
10 NRS 244.164.

11 **Sec. 4.** NRS 293.543 is hereby amended to read as follows:

12 293.543 1. If the registration of an elector is cancelled
13 pursuant to subsection 2 of NRS 293.540, the county clerk shall
14 reregister the elector upon notice from the clerk of the district court
15 that the elector has been ~~declared sane or mentally competent~~
16 *found* by the district court ~~to~~ *to have the mental capacity to vote.*

17 2. If the registration of an elector is cancelled pursuant to
18 subsection 3 of NRS 293.540, the elector may reregister after
19 presenting satisfactory evidence which demonstrates that the
20 elector's:

21 (a) Conviction has been overturned; or

22 (b) Civil rights have been restored:

23 (1) If the elector was convicted in this State, pursuant to the
24 provisions of NRS 213.090, 213.155 or 213.157.

25 (2) If the elector was convicted in another state, pursuant to
26 the laws of the state in which he or she was convicted.

27 3. If the registration of an elector is cancelled pursuant to the
28 provisions of subsection 5 of NRS 293.540, the elector may
29 reregister immediately.

30 4. If the registration of an elector is cancelled pursuant to the
31 provisions of subsection 6 of NRS 293.540, after the close of
32 registration for a primary election, the elector may not reregister
33 until after the primary election.

34 **Sec. 5.** Chapter 159 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *1. A ward retains his or her right to vote unless the court*
37 *specifically finds by clear and convincing evidence that the ward*
38 *lacks the mental capacity to vote because he or she cannot*
39 *communicate, with or without accommodations, a specific desire*
40 *to participate in the voting process.*



- 1 2. *If the court makes a finding pursuant to subsection 1, the*
- 2 *court must include the finding in a court order and provide a*
- 3 *certified copy of the order to the county clerk of the county in*
- 4 *which the ward resides or the registrar of voters of that county, as*
- 5 *applicable, in the manner set forth in NRS 293.542.*

