

Amendment No. 38

Assembly Amendment to Assembly Bill No. 108 (BDR 24-267)

Proposed by: Assembly Committee on Legislative Operations and Elections**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SRT/BFG



Date: 3/27/2013

A.B. No. 108—Revises provisions relating to the eligibility to vote of certain persons. (BDR 24-267)



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.

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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:

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

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

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

A person is not ineligible to vote on the ground that the person has been adjudicated mentally incompetent unless a court of competent jurisdiction specifically finds by clear and convincing evidence that the person lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process and includes the finding in a court order.

Sec. 2. NRS 293.540 is hereby amended to read as follows:
293.540 The county clerk shall cancel the registration:

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

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

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

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

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

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

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

6. At the request of the person registered.

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

8. As required by NRS 293.541.

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

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

293.542 Within 30 days after *a court of competent jurisdiction issues an order stating that the court specifically finds by clear and convincing evidence that* a person ~~is adjudicated insane or mentally incompetent by a district court, the clerk of the district~~ *lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process, the* court shall provide a certified copy of the order ~~for judgment of insanity or mental incompetency~~ to:

1. The county clerk of the county in which the person is a resident ~~if the person is not a resident of the county in which the district court is located; or~~ *; and*

2. The ~~registrar of voters of the county, if the person is a resident of the county in which the district court is located and the county has created the office of registrar of voters pursuant to NRS 244.164~~ *Office of the Secretary of State.*

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

293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been ~~declared sane or mentally competent~~ *found by the district court* ~~to have the mental capacity to vote. The court must include the finding in a court order and, not later than 30 days after issuing the order, provide a certified copy of the order to the county clerk of the county in which the person is a resident and to the Office of the Secretary of State.~~

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

(a) Conviction has been overturned; or

(b) Civil rights have been restored:

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

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

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

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

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

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

2. If the court makes a finding pursuant to subsection 1, the court must include the finding in a court order and provide a certified copy of the order to the county clerk or the registrar of voters, as applicable, of the county in which the ward resides ~~for the registrar of voters of that county, as applicable,~~ and to the Office of the Secretary of State, in the manner set forth in NRS 293.542.