

Amendment No. 1 to HB0445

Farmer
Signature of Sponsor

AMEND Senate Bill No. 407*

House Bill No. 445

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 2-2-116, is amended by deleting "received a pardon or had your full rights of citizenship restored by a court" and substituting "had your right of suffrage restored as prescribed by the law of this state for each felony conviction".

SECTION 2. Tennessee Code Annotated, Section 2-2-139, is amended by deleting subdivision (a)(1) and substituting:

(1) The person has been pardoned of all infamous crimes and the person's right of suffrage has been restored as prescribed by the law of this state for each felony conviction;

SECTION 3. Tennessee Code Annotated, Section 2-2-139, is amended by deleting subdivision (a)(2) and substituting:

(2) The person's right of suffrage has been restored as prescribed by the law of this state for each felony conviction; or

SECTION 4. Tennessee Code Annotated, Section 2-19-143, is amended by deleting the section and substituting:

(a) The following provisions govern the exercise of the right of suffrage for those persons convicted of an infamous crime:

(1) A person who has been convicted of an infamous crime, as defined by § 40-20-112, in this state shall not register to vote or vote at an election unless:

(A) The person has been pardoned by the governor and the person's right of suffrage has been restored as prescribed by the law of this state for each felony conviction; or

(B) The person's right of suffrage has otherwise been restored as prescribed by the law of this state for each felony conviction;

(2) A person who has been convicted in federal court of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall not register to vote or vote at an election unless:

(A) The person has been pardoned by the president of the United States and the person's right of suffrage has been restored as prescribed by the law of this state for each felony conviction; or

(B) The person's right of suffrage has otherwise been restored as prescribed by the law of this state for each felony conviction; and

(3) A person who has been convicted in another state of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall not register to vote or vote at an election in this state unless:

(A) The person has been pardoned by the governor or other appropriate authority of such other state and the person's right of suffrage has been restored as prescribed by the law of this state for each felony conviction; or

(B) The person's right of suffrage has otherwise been restored as prescribed by the law of this state for each felony conviction.

(b) The right of suffrage is restored by operation of law on the effective date of this act to a person who forfeited the right of suffrage only because of a felony conviction prior to January 15, 1973.

SECTION 5. Tennessee Code Annotated, Section 40-29-101, is amended by deleting the section and substituting:

As used in this part:

(1) "Citizenship rights" and "rights of citizenship" include:

- (A) The right to serve on a jury;
- (B) The right of suffrage;
- (C) The right to hold public office;
- (D) The right to execute a fiduciary office; and
- (E) The right to possess a firearm;

(2) "Court costs" includes fees, litigation taxes, and any other costs assessed against a defendant by the court at sentencing; and

(3) "Voter fraud" means a felony offense in title 2, chapter 19, or an attempt, conspiracy, or solicitation to commit a felony offense in title 2, chapter 19.

SECTION 6. Tennessee Code Annotated, Section 40-29-102, is amended by deleting the section and substituting:

(a) Except as provided in subsections (b) and (c), a person rendered infamous or deprived of rights of citizenship by the judgment of any state or federal court is eligible to seek restoration of rights of citizenship by petitioning the circuit court of the county where the petitioner resides or where the conviction for the infamous crime occurred upon:

(1) Receiving a pardon; however, a court does not have the jurisdiction to alter, delete, or render void special conditions of a pardon pertaining to the right of suffrage or the right to possess a firearm;

(2) The discharge from custody by reason of service or expiration of the maximum sentence imposed by the court for the infamous crime; or

(3) Being granted a certificate of final discharge from supervision by the board of parole pursuant to § 40-28-609, or an equivalent discharge by another state, the federal government, or county correction authority.

(b) The following persons shall never be eligible to have the right of suffrage restored and vote in this state:

(1) A person convicted after July 1, 1986, of the offense of:

- (A) First degree murder;
- (B) Aggravated rape;
- (C) Treason; or
- (D) Voter fraud;

(2) A person convicted after July 1, 1996, but before July 1, 2006, of any of the offenses set out in subdivision (b)(1) or any other degree of murder or rape; and

(3) A person convicted on or after July 1, 2006, of:

- (A) Any of the offenses set out in subdivision (b)(1) or (b)(2);
- (B) Any violation of title 39, chapter 16, part 1, 4, or 5 designated as a felony or any violation containing the same elements and designated as a felony in any other state or federal court; or
- (C) Any sexual offense or violent sexual offense set out in § 40-39-202 that is designated as a felony or any violation containing the same elements and designated as a felony in any other state or federal court and in which the victim was a minor.

(c) A person convicted of an infamous crime after May 18, 1981, is not eligible to have the right of suffrage restored and vote in this state unless the person:

(1) Has paid all restitution to the victim or victims of the offense ordered by the court as part of the sentence;

(2) Beginning September 1, 2010, has paid all court costs assessed against the person at the conclusion of the person's trial, except where the court has made a finding at an evidentiary hearing that the person is indigent at the time of filing the petition for restoration of the right of suffrage; and

(3) Is current in all child support obligations.

SECTION 7. Tennessee Code Annotated, Section 40-29-103, is amended by deleting the section and substituting:

(a) A petition for restoration of rights of citizenship must:

(1) Set forth the basis for the petitioner's eligibility for restoration, including:

(A) A list of each state and federal felony conviction of the petitioner;

(B) Whether the petitioner is eligible to have the right of suffrage restored under § 40-29-102(b) and (c); and

(C) Whether the petitioner is prohibited from possessing a firearm under § 39-17-1307(b), (f)(1), (h)(1)(D), (i), or (j);

(2) State the reasons the petitioner believes that the petitioner's citizenship rights should be restored;

(3) Be accompanied by satisfactory proof, such as certified records, sworn statements, and other documents or information, necessary to demonstrate to the court that the petitioner is both eligible for and merits having rights of citizenship restored; and

(4) In order to restore the petitioner's right of suffrage, include sworn statements by the petitioner demonstrating that the petitioner is eligible for restoration of the right of suffrage under § 40-29-102(b) and (c).

(b) The court may require any additional proof as it deems necessary to reach a just decision on the petition.

(c)

(1) Prior to the court acting on a petition filed pursuant to this part, the court clerk shall notify:

(A) The district attorney general in whose county the petitioner resides and each district attorney general of the county in which each conviction occurred that a petition for restoration of rights of citizenship has been filed by the petitioner. The notice must be sent at least thirty (30) days prior to any hearing on or disposition of the petition. Each district attorney general so notified may object to the restoration of the petitioner's citizenship rights either in person or in writing; and

(B) The coordinator of elections and the attorney general and reporter. The notice must be sent at least thirty (30) days prior to any hearing on or disposition of the petition. The attorney general and reporter, as counsel for this state, may intervene either in person or in writing for the purpose of objecting to the petitioner's eligibility for restoration of citizenship rights.

(2) If the petitioner was rendered infamous or deprived of citizenship rights by judgment of a federal court, then the circuit court shall give the notice required in subdivision (c)(1) to the United States attorney, the district attorney general in whose district the petitioner is currently residing, the coordinator of elections, and the attorney general and reporter. The United States attorney, the district attorney general in whose district the petitioner is currently residing, and the attorney general and reporter have the same right to object to the petition as is provided in subdivision (c)(1).

(d) The petitioner has the burden of establishing by a preponderance of the evidence that the petitioner is eligible for restoration of each of the rights of citizenship sought in the petition. If an objection to the petition has not been filed with the court by a

district attorney general, a United States attorney, or the attorney general and reporter within thirty (30) days of the notice sent pursuant to subsection (c), then the court may rule on the petition without a hearing.

(e)

(1) The court shall order the restoration of the petitioner's full rights of citizenship and send a copy of the order to the state coordinator of elections if, upon the face of the petition or after conducting a hearing, the court finds:

(A) The petitioner is eligible for restoration of the right of suffrage under § 40-29-102(b) and (c);

(B) The petitioner is not prohibited from possessing a firearm under § 39-17-1307(b), (f)(1), (h)(1)(D), (i), or (j); and

(C) The petitioner merits having full citizenship rights restored; or

(2)

(A) If, upon the face of the petition or after conducting a hearing, the court does not find that the petitioner's full citizenship rights should be restored but does find that one (1) or more of the petitioner's citizenship rights should be restored, then the court shall so order; provided, however, that:

(i) The court shall not order the restoration of the petitioner's right to possess a firearm unless the person's full rights of citizenship are being restored and the person is not prohibited from possessing a firearm under § 39-17-1307(b), (f)(1), (h)(1)(D), (i), or (j); and

(ii) The court shall not order the restoration of the petitioner's right of suffrage unless the court finds that the petitioner is eligible for restoration of the right of suffrage under § 40-29-102(b) and (c).

(B) If the court determines that the petitioner's right of suffrage should be restored, then the court shall direct that a copy of an order restoring the right of suffrage be sent to the state coordinator of elections.

(f) All costs for a proceeding under this part must be paid by the petitioner; however, the court may waive the costs if the defendant is indigent.

(g) A person whose right of suffrage has been restored by order of the court pursuant to this section shall submit a certified copy of the order to the administrator of elections of the county in which the person is eligible to vote. The administrator of elections shall verify with the coordinator of elections that the order was issued and, upon receiving the verification, shall issue the person a voter registration card entitling the person to vote.

(h) If a person obtained a court order prior to the effective date of this act that restores the person's right of suffrage and the person submits a certified copy of the court order and a sworn statement signed by the person seeking restoration stating that the petitioner is eligible for restoration of the right of suffrage under § 40-29-102(c) to the administrator of elections of the county in which the person resides, then the administrator of elections shall provide a copy of the court order to the coordinator of elections within five (5) business days. The coordinator of elections shall verify the court order and, if the sworn statement is accurate and the person is otherwise eligible, inform the administrator of elections that the person must be issued a voter registration card entitling the person to vote. The coordinator of elections is authorized to develop a uniform form for the sworn statement required by this subsection (h).

SECTION 8. Tennessee Code Annotated, Section 40-29-104, is amended by deleting the section and substituting:

The administrative office of the courts, in consultation with the secretary of state and other entities as deemed appropriate by the administrative office of the courts, shall develop a petition for restoration of citizenship rights form and an order granting

restoration of citizenship rights form that complies with the requirements of this part.

The petition and order forms must be made available to the clerks of court, the department of correction, the board of parole, the department of human services, and online for use by the public.

SECTION 9. Tennessee Code Annotated, Section 40-29-105, is amended by deleting the section.

SECTION 10. Tennessee Code Annotated, Title 40, Chapter 29, is amended by deleting Part 2.

SECTION 11. Tennessee Code Annotated, Section 40-20-114(b), is amended by deleting "§ 40-29-105" and substituting "§ 40-29-103".

SECTION 12. This act takes effect upon becoming a law, the public welfare requiring it.