
A BILL FOR AN ACT

RELATING TO VOTING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 11-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§11-13 Rules for determining residency.** For the purpose
4 of this title, there can be only one residence for an
5 individual, but in determining residency, a person may treat
6 oneself separate from the person's spouse. The following rules
7 shall determine residency for election purposes only:

8 (1) The residence of a person is that place in which the
9 person's habitation is fixed, and to which, whenever
10 the person is absent, the person has the intention to
11 return;

12 (2) A person does not gain residence in any precinct into
13 which the person comes without the present intention
14 of establishing the person's permanent dwelling place
15 within [~~such~~] the precinct;

16 (3) If a person resides with the person's family in one
17 place, and does business in another, the former is the

1 person's place of residence; but any person having a
2 family, who establishes the person's dwelling place
3 other than with the person's family, with the
4 intention of remaining there shall be considered a
5 resident where the person has established [~~such~~] the
6 dwelling place;

7 (4) The mere intention to acquire a new residence without
8 physical presence at [~~such~~] the place, does not
9 establish residency, neither does mere physical
10 presence without the concurrent present intention to
11 establish [~~such~~] the place as the person's residence;

12 (5) A person does not gain or lose a residence solely by
13 reason of the person's presence or absence while
14 employed in the service of the United States or of
15 this State, or while a student of an institution of
16 learning, or while kept in an institution or asylum,
17 or while confined in a prison[~~+~~], jail, correctional
18 facility, or community correctional facility within or
19 outside of the State of Hawaii;

20 (6) No member of the armed forces of the United States,
21 the member's spouse or the member's dependent is a

1 resident of this State solely by reason of being
2 stationed in the State; and

3 (7) A person loses the person's residence in this State if
4 the person votes in an election held in another state
5 by absentee ballot or in person.

6 In case of question, final determination of residence shall be
7 made by the clerk, subject to appeal to the board of
8 registration under part III of this chapter."

9 SECTION 2. Section 11-15, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) Any person qualified to and desiring to register as a
12 voter in any county shall make and subscribe to an application
13 in the form of an affidavit.

14 The affidavit shall contain the following information:

- 15 (1) Name;
- 16 (2) Social security number;
- 17 (3) Date of birth;
- 18 (4) Residence, including mailing address;
- 19 (5) That the residence stated in the affidavit is not
20 simply because of the person's presence in the State
21 but that the residence was acquired with the intent to

1 make Hawaii the person's legal residence with all the
2 accompanying obligations therein;

3 (6) That the person is a citizen~~[+]~~; and

4 (7) Address or location of last voluntary residence for a
5 person held or incarcerated in a prison, jail,
6 correctional center, or community correctional
7 center."

8 SECTION 3. Section 15-2, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§15-2 Who may vote by absentee ballot.** (a) Any person
11 registered to vote may cast an absentee ballot in the manner
12 provided in this chapter and rules adopted by the chief election
13 officer.

14 (b) Absentee ballot shall be the sole method of voting for
15 all persons registered to vote as residents of the State of
16 Hawaii who are confined in a prison, jail, correctional center,
17 or community correctional center."

18 SECTION 4. Section 15-5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§15-5 Delivery of ballots.** (a) Immediately upon receipt
21 of a request within the time limit specified in section 15-4,
22 the clerk shall examine the records to ascertain whether or not

1 the voter is lawfully entitled to vote as requested. As soon as
2 the printed official ballots are available, the clerk shall mail
3 in a forwarding envelope or deliver in person if the voter
4 appears at the office of the clerk, an official ballot and other
5 materials prescribed in section 15-6 except that an
6 incapacitated voter may send a representative to obtain the
7 voter's ballots pursuant to the rules [~~promulgated~~] adopted by
8 the chief election officer. All requests received upon the last
9 day specified in section 15-4 for receipt shall be mailed to the
10 voter requesting the same as soon as reasonably practicable, but
11 in no event later than twenty-four hours after receipt thereof.

12 (b) The chief election officer may adopt rules for the
13 preparation of special ballots of such different weight of
14 paper, overall size and shape, or other physical criteria as
15 shall be prescribed by the secretary of state or other federal
16 or state officer to conform with minimum postal, military,
17 correctional, or other federal or state regulations, rules, or
18 orders regarding the transportation and delivery of the ballots;
19 provided that the text is identical in substance, except as to
20 type size, with that appearing on the official ballots.

21 [~~(b)~~] (c) If mailed absentee ballots are not received by
22 the voter within five days of an election, the voter may request

1 that absentee ballots be forwarded by facsimile. Upon receipt
2 of [~~such~~] a request and confirmation that proper application was
3 made, the clerk may transmit appropriate ballots by facsimile
4 together with a form requiring the affirmations and information
5 required by section 15-6, and a form containing a waiver of the
6 right to secrecy, as provided by section 11-137. The voter may
7 return the voted ballots and executed forms by facsimile or
8 mail; provided that they are received by the issuing clerk no
9 later than the close of polls on election day. Upon receipt,
10 the clerk shall verify compliance with the requirements of
11 section 15-9(c), and prepare the ballots for counting pursuant
12 to section 15-10."

13 SECTION 5. Section 831-2, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) A person sentenced for a felony, from the time of the
16 person's sentence until the person's final discharge, may not:

17 (1) Vote in an election, but [~~if~~]:

18 (A) If the [~~defendant~~] person is placed on probation
19 or the [~~defendant~~] person is paroled after
20 commitment to imprisonment, the [~~defendant~~]
21 person may vote during the period of the
22 probation or parole; or

1 (B) If the person is committed to imprisonment, the
2 person may vote by absentee ballot while
3 imprisoned, during a period commencing two years
4 prior to the person's scheduled final discharge
5 from imprisonment; or

6 (2) Become a candidate for or hold public office."

7 SECTION 6. Section 831-5, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) If the sentence was in this State, the order,
10 certificate, or other instrument of discharge, given to a person
11 sentenced for a felony upon the person's discharge after
12 completion of service of the person's sentence or after service
13 under probation or parole, shall state that the [~~defendant's~~
14 ~~rights to vote and to hold any future public office,~~] rights of
15 which the defendant was deprived by this chapter[~~7~~] are thereby
16 restored and that the defendant suffers no other disability by
17 virtue of the defendant's conviction and sentence except as
18 otherwise provided by this chapter. A copy of the order or
19 other instrument of discharge shall be filed with the clerk of
20 the court of conviction."

21 SECTION 7. Statutory material to be repealed is bracketed
22

1 and stricken. New statutory material is underscored.

2 SECTION 8. This Act shall take effect on July 1, 2050.

Report Title:

Voting Rights, Incarcerated Persons

Description:

Allows incarcerated persons who were Hawaii residents at the time of their arrest and who have no more than two years left before release from imprisonment, to vote by absentee ballot in Hawaii's elections. Effective 7/1/2050 (SD2)