

JAN 24 2018

S.B. NO. 3052

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# A BILL FOR AN ACT

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PROPOSING AN AMENDMENT TO ARTICLE II, SECTION 2 OF THE HAWAII  
STATE CONSTITUTION.

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

1       SECTION 1. The legislature finds that disenfranchisement  
2 of persons following criminal convictions undermines democratic  
3 ideals by depriving otherwise-qualified citizens of their right  
4 to vote. Nationally, disenfranchisement based on criminal  
5 conviction has a disproportionate effect on communities of  
6 color, which often experience a higher incarceration rate than  
7 white communities. In Hawaii, this loss of voting power is a  
8 burden borne most greatly by members of the Native Hawaiian  
9 community, who are and have historically been disproportionately  
10 incarcerated.

11       This loss of rights does more than disproportionately  
12 disenfranchise minorities and undermine the principles of  
13 democracy. According to the American Correctional Association,  
14 the loss of the right to vote impedes "the successful reentry of  
15 offenders as responsible, productive citizens into the  
16 community". Voting can be an opportunity for inmates to learn



1 about candidates and issues, engage in civic education, and  
2 prepare for reintegration into society. Allowing incarcerated  
3 persons to vote by absentee ballot will benefit the State by  
4 helping inmates remain aware of issues that are important to  
5 society so that they may participate more fully in their  
6 communities upon release.

7 Denying the right to vote to an entire class of citizens,  
8 especially where that class is disproportionately composed of  
9 Native Hawaiians, is deeply problematic to our islands'  
10 democratic ideals, and counterproductive to the rehabilitation  
11 and effective reentry of our incarcerated population. Voting  
12 rights ensure full citizenship and a tool for easing reentry to  
13 the community after being detained. Maintaining ties to one's  
14 community through civic participation is one way to help people  
15 get engaged with the community.

16 In 2010, the United States Court of Appeals held in  
17 *Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010) that  
18 Washington State felony inmates are entitled to vote under  
19 section 2 of the Voting Rights Act of 1965. The court held that  
20 current restrictions, which strip convicted felons of the right



1 to vote while incarcerated or under Department of Corrections  
2 supervision, unfairly discriminate against minorities.

3 The Hawaii State Constitution disqualifies a person  
4 convicted of a felony from being qualified to vote except upon  
5 the person's final discharge or earlier as provided by law.

6 Accordingly, pursuant to the state constitution, section 831-2,  
7 Hawaii Revised Statutes, disqualifies a person from voting in an  
8 election if the person is sentenced for a felony, from the time  
9 of the person's sentence until the person's final discharge.

10 However, if the person is placed on probation or is paroled  
11 after commitment to imprisonment, the person may vote during the  
12 period of the probation or parole. Accordingly, under the state  
13 constitution and state law, a person convicted of a felony and  
14 currently serving a term of imprisonment is disqualified from  
15 voting.

16 Accordingly, the purpose of this Act is to propose an  
17 amendment to article II, section 2, of the Constitution of the  
18 State of Hawaii to allow individuals who are Hawaii residents  
19 and convicted of a felony to vote in Hawaii elections at any  
20 time after conviction rather than upon the individual's final  
21 discharge.



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SECTION 2. Article II, section 2, of the Constitution of the State of Hawaii is amended to read as follows:

"Section 2. No person who is non compos mentis shall be qualified to vote. ~~[No person convicted of a felony shall be qualified to vote except upon the person's final discharge or earlier as provided by law.]~~"

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall any person who is a resident of the State and convicted of a felony be qualified to vote at any time after conviction rather than upon the person's final discharge?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

INTRODUCED BY:

Will Eym  
By Request



# S.B. NO. 3052

**Report Title:**

Voting Rights; Incarcerated Individuals; Constitutional Amendment

**Description:**

Proposes a constitutional amendment to allow incarcerated individuals who are Hawaii residents and convicted of a felony to vote in Hawaii elections at any time after conviction rather than after final discharge.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

