



IOWA ELECTION LAW

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Federalism in Election Law

- Long-shaped by overlapping constitutional and statutory schemes and by overlapping constituencies.
- The U.S. Constitution did not originally provide guarantees of the right to vote and left the issue to the states.

Federalism in Election Law

- *U.S. Constitution Article IV, Section 4.*
 - *The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.*
- States still retain broad discretion in establishing candidacy requirements for state offices and qualifications to vote, but federal constitutional amendments and associated statutes have established certain voting rights at the federal level.



Who Can Vote: Federal Provisions

- The 14th Amendment (1868) established that:
 - *All persons born or naturalized in the United States, are citizens of the United States and the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.*
- The 15th Amendment (1870) established that:
 - *The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.*
- The 19th Amendment (1920) established that:
 - *The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.*



Who Can Vote: Federal Provisions

- The 24th Amendment (1964) established that:
 - *The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any **poll tax** or other tax.*
- The 26th Amendment (1971) established that:
 - *The right of citizens of the United States, who are 18 years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.*



Who Can Vote: Federal Provisions

- Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 (P.L. 99-410)
 - Requires that all states and territories allow certain uniformed and overseas U.S. citizens to vote in federal elections.
- Military and Overseas Voter Empowerment (MOVE) Act of 2009 (P.L. 111-84)
 - Was part of the National Defense Authorization Act for FY 2010.
 - Required transmission of ballots no later than 45 days before a federal election, provided for electronic ballot delivery, and removed notary requirements.



Who Can Vote: Federal Provisions

- *Dunn v. Blumstein*, 405 U.S. 330 (1972)
 - Case centered around a durational residency statute limiting voting rights in Tennessee (applicable to all U.S. citizens in the state).
 - The Tennessee statute required that a person be a resident of the state for one year and a resident of the county for three months before qualifying to vote in that state.
 - The U.S. Supreme Court held that Tennessee's durational residency requirements were not necessary to further a compelling state interest and therefore violated the Equal Protection Clause of the 14th Amendment.
 - Court ruled that thirty days is sufficient time to complete administrative tasks to preserve the "purity of the ballot box" and prevent fraud.

Who Can Vote: Iowa Provisions

- Iowa Constitution, Article II, Section 1, as amended in 1970, provides that:
 - *Every citizen of the United States of the **age of twenty-one years**, who shall have been a resident of this state for such period of time as shall be provided by law and of the county in which **he** claims **his vote** for such period of time as shall be provided by law, shall be entitled to vote at all elections which are now or hereafter may be authorized by law. The general assembly may provide by law for different periods of residence in order to vote for various officers or in order to vote in various elections. The required periods of residence shall not exceed six months in this state and sixty days in the county.*

Who Can Vote: Iowa Provisions

- **Privileged from arrest.** *SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.*
- **From military duty.** *SEC. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war, or public danger.*
- **Persons in military service.** *SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place, or station within this state.*
- **Ballot.** *SEC. 6. All elections by the people shall be by ballot.*



Who Can Vote: Iowa Provisions

- An “eligible elector” is any person who is qualified to register to vote. (I.C. §39.3(6))
- To be qualified to register to vote, a person must:
 - Be a citizen of the United States.
 - Be an Iowa resident as provided by the legislature.
 - Be at least 18 years of age.
 - Not claim the right to vote in more than one place.
 - Not be deemed mentally incompetent to vote.
 - Not have been convicted of an “infamous crime.”



Who Can Vote: Iowa Provisions

Mental Capacity and Criminal History

- Until 2008, Article II, Section 5 of the Iowa Constitution stated that:
 - *No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.*
- Iowa Constitution, Article II, Section 5, as amended in 2008, provides that:
 - *A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.*



Who Can Vote: Iowa Provisions

Mental Capacity

- Separate determination by a court required following court appointment of a guardian based upon mental incapacity.
- Iowa Code section 633.556 provides, in part, that:
 - *The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.*



Who Can Vote: Iowa Provisions

Criminal History

- The definition of an “Infamous Crime”
 - Historically the Iowa Supreme Court defined an infamous crime as any crime punishable by imprisonment in the state penitentiary.
 - 1916 - Blodgett v. Clark, 177 Iowa 575, 578.
 - 1916 – Flannagan v. Jepson, 177 Iowa 393, 399-400.
 - 1957 – State ex rel. Dean v, Haubrich, 248 Iowa 978, 980.



Who Can Vote: Iowa Provisions

Criminal History

- Chiodo v. The Section 43.24 Panel and Bisignano, 846 N.W. 2d 845 (Iowa 2014)
 - Plurality Opinion:
 - Earlier court decisions lacked a textual analysis of the constitutional provision.
 - Held that the text focused on the nature of the offense committed rather than the nature or duration of punishment.
 - Held that any definition of an infamous crime must be narrowly tailored to promote the compelling governmental interest of protecting the integrity of the electoral process.



Who Can Vote: Iowa Provisions

Criminal History

- Chiodo v. The Section 43.24 Panel and Bisignano, 846 N.W. 2d 845 (Iowa 2014)
 - Special Concurrence :
 - Agreed with the Section 43.24 Panel that all felonies and that felonies alone are infamous crimes.
 - Stated that when the 2008 Amendment was adopted that the electorate adopted the then understood definition of an infamous crime.
 - Noted that the plurality decision introduced uncertainty into the electoral process and invited future voting rights litigation.



Who Can Vote: Iowa Provisions

Criminal History

- Chiodo v. The Section 43.24 Panel and Bisignano, 846 N.W. 2d 845 (Iowa 2014)
 - Dissent:
 - Stated that the court should maintain its 98-year precedent and continue to define an infamous crime by the possibility of imprisonment in state prison.
 - Noted that “the legislature cannot write a constitutional definition of ‘infamous crime’ by its enactment of [statute].”



Who Can Vote: Iowa Provisions

Criminal History

- Current Litigation being brought by the ACLU of Iowa on behalf of an Iowa woman in Polk County District Court.
- Under the plurality opinion the legislature could alter the statutory definition of infamous crime in Iowa Code section 39.3(8) following the guidelines in their opinion.
- The current Iowa Code definition reads as follows:
“Infamous crime” means a felony as defined in section 701.7, or an offense classified as a felony under federal law.

Who Can Vote: Iowa Provisions

Residency Requirements

- Iowa Code Section 48A.5(2)(b)
 - *A person's residence, for voting purposes only, is the place which the person declares is the person's home with the intent to remain there permanently or for a definite, or indefinite or indeterminable length of time. A person who is homeless or has no established residence may declare residence in a precinct by describing on the voter registration form a place to which the person often returns.*



Who Can Vote: Iowa Provisions

Residency Requirements

- A residence is in a precinct where a person's home or dwelling is located.
- A residence cannot be in a commercial or industrial building unless used as a primary nighttime residence.
- A student who can claim a residence at or near school and can also claim another residence may choose the place of residence for voting purposes.
- An active member of the US armed forces who was previously a resident may claim Iowa residency.
- For homeless persons, the requirements are construed liberally.



Registering To Vote

- Iowa allows registration at age 17 ½ , but registration only becomes effective at age 18. (I.C. §48A.5(2)(c))
- Election day registration allowed. (I.C. §48A.7A)
- Federal mail voter registration form permits registration for all elections. (I.C. §48A.12)
- Electronic signatures for voter registration purposes are required to be accepted but only the State Voter Registration Commission provides rules related to technological requirements to ensure security and integrity. (I.C. §48A.13)

Registering To Vote

Election Day Registration

- Iowa Code section 48A.7A permits election day registration, but stipulates that a person must:
 - Appear in person at the eligible person's precinct.
 - Complete a voter registration application.
 - Present proof of identity.
 - Present proof of residency.
- In lieu of proof of identity and residency, a person may establish both by written oath of a person registered in the precinct. (I.C. §48A.7A(1)(c))



Registering To Vote

Election Day Registration

- Proof of identity and residency requirements provided under Iowa Code section 48A.7A.
- Establishing Identity:
 - Iowa driver's license or nonoperator's identification card.
 - Other forms of identification accepted:
 - Out-of-state driver's license or nonoperator's identification card.
 - United States Passport.
 - United States military identification card.
 - Employer issued identification card.
 - High school or postsecondary student identification card from an Iowa institution.



Registering To Vote

Election Day Registration

- Establishing residency:
 - Residential lease.
 - Property tax statement.
 - Utility bill.
 - Bank statement.
 - Paycheck.
 - Government check.
 - Other government document.

Registering To Vote

Cancellation of Registration

- Under Iowa Code section 48A.30, a voter's registration is required to be cancelled if the registered voter:
 - Dies.
 - Registers to vote in another jurisdiction.
 - Requests to cancel registration.
 - Is convicted of a felony and notice of the conviction is received by the state or county registrar.
 - Is declared incompetent to vote and notice is received by the state or county registrar.
 - Does not vote in two successive general elections (four years).



Registering To Vote

Registration Records

- Interstate Voter Registration Crosscheck Program initiated by Iowa, Kansas, Nebraska, and Missouri in 2005 and currently used in 28 states.
- Membership is free and dependent only upon adoption of a Memorandum of Understanding and requires that participating states pull and share voter registration data every January.

Election Calendar

- Primary Election:
 - First Tuesday after the first Monday in June. (I.C. §43.7)
- General Election
 - First Tuesday after the first Monday in November in even-numbered years. (I.C. §39.1)
- School Election
 - First Tuesday after the first Monday in September in odd-numbered years. (I.C. §277.1)
- City Election
 - First Tuesday after the first Monday in November in odd-numbered years. (I.C. §376.1)



Election Calendar

- Special Elections
 - Must be held on a Tuesday but cannot be held within three weeks before or after the primary or general election.
 - Cannot be held in conjunction with a:
 - Primary election.
 - School election, unless the special election is for a school district or community college.
 - Special city primary or city runoff election.
 - Can be held with other elections so long as there is no conflict between the two elections or if there is a conflict, upon the commissioner of election's determination that holding the election will not cause undue difficulties.



Election Calendar

- Conflicts
 - *[A] conflict between two elections exists only when one of the elections would require use of **precinct boundaries which differ from those to be used for the other election**, or when some but not all of the registered voters of any precinct would be entitled to vote in one of the elections and all of the registered voters of the same precinct would be entitled to vote in the other election. (I.C. §47.6(2))*



The Iowa Caucuses

- Not Later than the fourth Monday in February of each even-numbered year.
- At least eight days earlier than the scheduled date for any state meeting, caucus, or primary that constitutes the first determining stage of the presidential nominating process in any other state.
- The state central committees of the political parties shall set the date for their caucuses.

The Iowa Caucuses

- Caucus Locations

- *Each precinct caucus shall be held in a building which is publicly owned or is suitable for and from time to time made available for holding public meetings wherever it is possible to do so. Upon the application of the county chairperson, the person having control of a building supported by taxation under the laws of this state shall make available the space necessary to conduct the caucus without charge during presidential election years and at a charge not greater than that made for its use by other groups during other years. When using public buildings, the county chairpersons shall cooperate to attempt the colocation of the caucuses. (I.C. §43.93)*



The Iowa Caucuses

- Iowa law requires that:
 - Someone from each precinct, selected according to party rules, report results to the state central committee of the party.
 - The county central committees certify a list of delegates to the county convention to the county commissioner of elections within 60 days following the caucus.
 - Chairperson of county central committee is required to submit completed voter registration forms from precincts within 14 days of the caucus.

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