

House File 44 - Introduced

HOUSE FILE 44

BY HUNTER

A BILL FOR

1 An Act defining infamous crime as election misconduct in
2 the first degree that is vote fraud for the purposes of
3 disqualifying a person from registering to vote and voting
4 and from being a candidate for certain elective offices and
5 limiting such disqualifications to the term of the sentence.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39.3, subsection 8, Code 2021, is amended
2 to read as follows:

3 8. "*Infamous crime*" means ~~a felony~~ election misconduct in
4 the first degree that is vote fraud as defined described in
5 section ~~701.7~~ 39A.2, subsection 1, paragraph "b", or an offense
6 classified as a felony under federal law and shall not include
7 any misdemeanor or other felony. A person's disqualification
8 on account of the person's conviction of an infamous crime
9 pursuant to Article II, section 5 of the Constitution of the
10 State of Iowa is limited in duration to the period of the
11 person's sentence, and the person's right to vote is restored
12 automatically upon the person's successful discharge of the
13 criminal conviction, including any period of probation or
14 parole, regardless of the person's payment of fines, fees, or
15 restitution.

16 Sec. 2. Section 39A.1, subsection 2, Code 2021, is amended
17 to read as follows:

18 2. The purpose of **this chapter** is to identify actions which
19 threaten the integrity of the election process and to impose
20 significant sanctions upon persons who intentionally commit
21 those acts. It is the intent of the general assembly that
22 offenses with the greatest potential to affect the election
23 process be vigorously prosecuted and strong punishment meted
24 out through the imposition of felony sanctions ~~which, as~~
25 ~~a consequence, remove the voting rights of the offenders.~~
26 Other offenses are still considered serious, but based on the
27 factual context in which they arise, they may not rise to
28 the level of offenses to which felony penalties attach. The
29 general assembly also recognizes that instances may arise in
30 which technical infractions of **chapters 39 through 53** may
31 occur which do not merit any level of criminal sanction.
32 In such instances, administrative notice from the state or
33 county commissioner of elections is sufficient. Mandates
34 or proscriptions in **chapters 39 through 53** which are not
35 specifically included in **this chapter** shall be considered to be

1 directive only, without criminal sanction.

2 Sec. 3. Section 43.18, subsection 9, Code 2021, is amended
3 to read as follows:

4 9. A statement that the candidate is aware that the
5 candidate is disqualified from holding office if the candidate
6 has been convicted of ~~a felony or other~~ an infamous crime as
7 defined in section 39.3 and the candidate's rights have not
8 been restored by the governor, ~~or~~ by the president of the
9 United States, or by operation of section 39.3.

10 Sec. 4. Section 43.67, subsection 2, paragraph i, Code 2021,
11 is amended to read as follows:

12 *i.* A statement that the candidate is aware that the
13 candidate is disqualified from holding office if the candidate
14 has been convicted of ~~a felony or other~~ an infamous crime as
15 defined in section 39.3 and the candidate's rights have not
16 been restored by the governor, ~~or~~ by the president of the
17 United States, or by operation of section 39.3.

18 Sec. 5. Section 44.3, subsection 2, paragraph i, Code 2021,
19 is amended to read as follows:

20 *i.* A statement that the candidate is aware that the
21 candidate is disqualified from holding office if the candidate
22 has been convicted of ~~a felony or other~~ an infamous crime as
23 defined in section 39.3 and the candidate's rights have not
24 been restored by the governor, ~~or~~ by the president of the
25 United States, or by operation of section 39.3.

26 Sec. 6. Section 45.3, subsection 9, Code 2021, is amended
27 to read as follows:

28 9. A statement that the candidate is aware that the
29 candidate is disqualified from holding office if the candidate
30 has been convicted of ~~a felony or other~~ an infamous crime as
31 defined in section 39.3 and the candidate's rights have not
32 been restored by the governor, ~~or~~ by the president of the
33 United States, or by operation of section 39.3.

34 Sec. 7. Section 47.7, subsection 2, paragraph a, Code 2021,
35 is amended to read as follows:

1 *a.* On or before January 1, 2006, the state registrar of
2 voters shall implement in a uniform and nondiscriminatory
3 manner, a single, uniform, official, centralized, interactive
4 computerized statewide voter registration file defined,
5 maintained, and administered at the state level that contains
6 the name and registration information of every legally
7 registered voter in the state and assigns a unique identifier
8 to each legally registered voter in the state. The state voter
9 registration system shall be coordinated with other agency
10 databases within the state, including, but not limited to,
11 state department of transportation driver's license records,
12 judicial records of ~~convicted felons~~ persons convicted of
13 infamous crimes as defined in section 39.3 and persons declared
14 incompetent to vote, and Iowa department of public health
15 records of deceased persons.

16 Sec. 8. Section 48A.6, subsection 1, Code 2021, is amended
17 to read as follows:

18 1. A person who has been convicted of ~~a felony~~ an infamous
19 crime as defined in section 701.7, ~~or convicted of an offense~~
20 ~~classified as a felony under federal law~~ 39.3. If the person's
21 rights are later restored by the governor, ~~or~~ by the president
22 of the United States, or by operation of section 39.3, the
23 person may register to vote.

24 Sec. 9. Section 48A.14, subsection 1, paragraph e, Code
25 2021, is amended to read as follows:

26 *e.* The challenged registrant has been convicted of a
27 ~~felony~~ an infamous crime as defined in section 39.3, and the
28 registrant's voting rights have not been restored.

29 Sec. 10. Section 48A.30, subsection 1, paragraph d, Code
30 2021, is amended to read as follows:

31 *d.* The clerk of the district court, or the United States
32 attorney, or the state registrar sends notice of the registered
33 voter's conviction of ~~a felony~~ an infamous crime as defined
34 in section 701.7, ~~or conviction of an offense classified as a~~
35 ~~felony under federal law~~ 39.3. The clerk of the district court

1 shall send notice of such a felony conviction to the state
2 registrar of voters. The registrar shall determine in which
3 county the ~~felon~~ convicted person is registered to vote, if
4 any, and shall notify the county commissioner of registration
5 for that county of the ~~felony~~ conviction.

6 Sec. 11. Section 49.79, subsection 2, paragraph f, Code
7 2021, is amended to read as follows:

8 *f.* The challenged person has been convicted of ~~a felony~~ an
9 infamous crime as defined in section 39.3, and the person's
10 voting rights have not been restored.

11 Sec. 12. Section 57.1, subsection 2, paragraph c, Code 2021,
12 is amended to read as follows:

13 *c.* That prior to the election the incumbent had been duly
14 convicted of ~~a felony~~ an infamous crime, as defined in section
15 ~~701.7~~ 39.3, and that the judgment had not been reversed,
16 annulled, or set aside, nor the incumbent pardoned or restored
17 to the rights of citizenship by the governor under chapter
18 914, by the president of the United States, or by operation of
19 section 39.3, at the time of the election.

20 Sec. 13. Section 161A.5, subsection 3, paragraph b, Code
21 2021, is amended to read as follows:

22 *b.* Every candidate shall file with the nomination papers
23 an affidavit stating the candidate's name, the candidate's
24 residence, that the person is a candidate and is eligible for
25 the office of commissioner, and that if elected the candidate
26 will qualify for the office. The affidavit shall also state
27 that the candidate is aware that the candidate is disqualified
28 from holding office if the candidate has been convicted of
29 ~~a felony or other~~ an infamous crime as defined in section
30 39.3 and the candidate's rights have not been restored by the
31 governor, ~~or~~ by the president of the United States, or by
32 operation of section 39.3.

33 Sec. 14. Section 277.4, subsection 2, paragraph b, Code
34 2021, is amended to read as follows:

35 *b.* Signers of nomination petitions shall include their

1 addresses and the date of signing, and must reside in the same
2 director district as the candidate if directors are elected
3 by the voters of a director district, rather than at-large.
4 A person may sign nomination petitions for more than one
5 candidate for the same office, and the signature is not invalid
6 solely because the person signed nomination petitions for
7 one or more other candidates for the office. The petition
8 shall be filed with the affidavit of the candidate being
9 nominated, stating the candidate's name, place of residence,
10 that such person is a candidate and is eligible for the office
11 the candidate seeks, and that if elected the candidate will
12 qualify for the office. The affidavit shall also state that
13 the candidate is aware that the candidate is disqualified from
14 holding office if the candidate has been convicted of a ~~felony~~
15 ~~or other~~ an infamous crime as defined in section 39.3 and the
16 candidate's rights have not been restored by the governor,
17 ~~or~~ by the president of the United States, or by operation of
18 section 39.3.

19 Sec. 15. Section 376.4, subsection 2, paragraph b, Code
20 2021, is amended to read as follows:

21 *b.* The petition must include the affidavit of the individual
22 for whom it is filed, stating the individual's name, the
23 individual's residence, that the individual is a candidate and
24 eligible for the office, and that if elected the individual
25 will qualify for the office. The affidavit shall also state
26 that the candidate is aware that the candidate is disqualified
27 from holding office if the candidate has been convicted of
28 ~~a felony or other~~ an infamous crime as defined in section
29 39.3 and the candidate's rights have not been restored by the
30 governor, ~~or~~ by the president of the United States, or by
31 operation of section 39.3.

32 Sec. 16. Section 602.8102, subsection 15, Code 2021, is
33 amended to read as follows:

34 15. Monthly, notify the county commissioner of registration
35 and the state registrar of voters of persons seventeen years of

1 age and older who have been convicted of a ~~felony~~ an infamous
2 crime, as defined in section 39.3, during the preceding
3 calendar month or persons who at any time during the preceding
4 calendar month have been legally declared to be a person who is
5 incompetent to vote as ~~that term is~~ defined in section 48A.2.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 Article II, section 5, of the Constitution of the State of
10 Iowa denies the privilege of an elector to any person convicted
11 of an infamous crime. State statute defines infamous crime as
12 a felony conviction under state or federal law. State law also
13 allows a person who has been discharged from parole, probation,
14 or work release, or who has been released from incarceration
15 upon completion of sentence, to apply to the governor for
16 restoration of the rights of citizenship, which include the
17 rights to register to vote and to vote. State statute also
18 requires that a candidate for elective office under the laws of
19 the state must be an eligible elector at the time of election.
20 By operation of law, this excludes persons who have been
21 convicted of a state or federal felony and not had their rights
22 of citizenship restored by the governor or the president of the
23 United States.

24 This bill alters the definition of "infamous crime" to
25 include only vote fraud that is election misconduct in the
26 first degree under Code section 39A.2. The bill also limits
27 the disqualification from holding the privilege of an elector
28 due to conviction of an infamous crime to the period of the
29 convicted person's sentence. A convicted person's right
30 to vote and hold office is restored automatically upon the
31 discharge of that person's sentence, including any period of
32 probation or parole, but not including the payment of fines,
33 fees, or restitution.

34 The bill removes references to conviction of a felony under
35 federal law.