

## CHAPTER 61 — REGISTRATION OF FORMER FELONS

### ◆ 6101. Statement of purpose.

The Constitution of the State provides that certain persons who previously lost voting rights because of a felony conviction shall be permitted to vote. It is the purpose of this chapter to provide a procedure whereby such persons may register to vote. (72 Del. Laws, c. 314, ◆ 1.)

### ◆ 6102. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

(1) "Commissioner of Elections" shall mean the State Election Commissioner or the Commissioner's designee.

(2) "Disqualifying felony" shall mean that type of felony set forth in ◆ 2,

Article V of the Constitution of this State which permanently disqualifies any person convicted of such felony from voting.

(3) "Financial obligations" includes such fees, fines, costs and restitution which a felony offender may be required to pay as part of the criminal sanctions imposed upon such offender.

(4) "Full discharge" or "fully discharged" shall mean that a person convicted of a criminal offense has served the required sentence of imprisonment, parole, work release, early release, supervised custody, probation and community supervision, and has also paid all financial obligations required by the sentence.

(b) For the purposes of ◆ 2 of Article V of the Constitution of this State and for the purposes of this chapter, no sentence shall be deemed to be expired until a person convicted of a criminal offense has served the required sentence of imprisonment, parole, work release, early release, or supervised custody and community supervision and has also paid all financial obligations and restitution required by the sentence. (72 Del. Laws, c. 314, ◆ 1.)

### ◆ 6103. Application for registration: felony conviction reviews.

(a) The county department of elections shall not register any applicant as a qualified voter until it has been determined that such applicant is lawfully eligible to vote. The county department shall, for each registration application, perform an electronic inquiry against the Criminal Justice Information System (CJIS) and other data to determine if the applicant has been convicted of a felony. If the applicant has not been convicted of a felony and is otherwise eligible to register to vote pursuant to the Delaware Constitution and this title, the applicant shall be registered.

(b) If a review by the county department of elections shows that the applicant has been convicted of a disqualifying felony, the registration application shall be denied and the applicant shall not be permitted to register.

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(c) If the applicant has been convicted of a felony which is not disqualifying but the felony conviction occurred within 5 years preceding the date of the application, then the registration application shall be denied.

(d) If the results of the (CJIS) inquiry cannot determine the eligibility of the applicant, the respective county department of elections shall forward the application to the Commissioner of Elections. (72 Del. Laws, c. 314, [◆](#) 1.)

#### [◆](#) 6104. Commissioner's review of application.

(a) If the applicant has not been convicted of a felony within the 5 years preceding the date of the application, the Commissioner of Elections shall request that both the Office of State Court Collections Enforcement (OSCCE) and the Department of Correction separately conduct a review and data search of all records relating to the applicant.

(b) Upon request by the Commissioner of Elections, the OSCCE shall review its records to determine if the applicant has paid all financial obligations assessed against such applicant. Upon request by the Commissioner of Elections, the Department of Correction shall review its records to determine if all sentences of imprisonment and community supervision imposed upon the applicant have been fully discharged.

(c) Where it has been determined that the applicant was convicted of a felony which is not disqualifying, has fully discharged all imposed sentences, and otherwise meets all constitutional requirements, the applicant shall be permitted to register as a qualified voter. Each stage of the review process shall be completed within a reasonable time.

(d) Where the Commissioner of Elections determines from information received from OSCCE or from the Department of Correction that there are financial obligations which have not been paid; or that not all sentences have been fully discharged; or that other questions or issues relating to the applicant's eligibility are still unresolved, the Commissioner shall deny the application for registration. Upon denial of an application under this section, the applicant shall be notified by mail. (72 Del. Laws, c. 314, [◆](#) 1.)

#### [◆](#) 6105. Cooperation between agencies; waiver of fees.

Notwithstanding any statute or other provision to the contrary, in any request for information or any act by the Commissioner of Elections under this chapter, fees which would otherwise be assessed for criminal background or other computer searches shall be waived. Each state agency and public subdivision of this State shall cooperate with and assist the Commissioner of Elections in the performance of the Commissioner's duties in implementing the provisions of this chapter, including but not limited to fingerprinting, background investigations and record reviews. (72 Del. Laws, c. 314, [◆](#) 1.)

#### [◆](#) 6106. Rules and regulations.

The Commissioner of Elections shall promulgate rules and regulations when information regarding an applicant is incomplete or uncertain. These guidelines and standards shall be used to determine whether or not the applicant shall be permitted to register to vote. (72 Del. Laws, c. 314, [◆](#) 1.)

#### [◆](#) 6107. Appeals.

Any decision by the Commissioner of Elections may be appealed to the Superior Court. No person whose registration application has been denied by the Commissioner of Elections shall be permitted to register or to vote until the Commissioner of Elections or the Court, in writing, approves such person's registration application. (72 Del. Laws, c. 314, [◆](#) 1.)

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