

State of Wisconsin Elections Board

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KEVIN J. KENNEDY
Executive Director

MEMORANDUM

TO: County and Municipal Clerks

FROM: Kevin J. Kennedy, Executive Director
State Elections Board

DATE: July 1, 1997

SUBJECT: Effect of Constitutional Amendment Barring Convicted Felons from Running for or Holding Elective Office in Wisconsin

In November 1996, the electors of the State of Wisconsin ratified a constitutional amendment which bars any person, who has been convicted of a felony for which they have not been pardoned, or who has been convicted of a misdemeanor involving a violation of public trust for which they have not been pardoned, from holding a state or local office. As a result of the adoption of this constitutional amendment, which took effect on November 5, 1996, local election officials will have to address a number of questions relating to convicted felons who seek to run for office or who are elected to office.

The constitutional amendment deals with two different types of crimes. The first involves felony convictions. Any person convicted of a felony in any federal or state court in the United States is barred from running for state or local office in Wisconsin, unless that person has been pardoned.

The second involves misdemeanor convictions involving a violation of public trust. The term, "misdemeanor involving a violation of public trust" has not been defined by state law. Filing officers do not have to worry about individuals convicted of that category of crime until the term has been defined. At the present time, there is no such thing as a misdemeanor involving a violation of public trust.

The State Elections Board staff has revised the Declaration of Candidacy form (EB-162) to reflect this constitutional change. Any person seeking to be a candidate for state or local office must file a Declaration of Candidacy. That declaration contains a sworn statement that the person has not been convicted of any felony for which they have not been pardoned, or any misdemeanor involving a violation of public trust for which they have not been pardoned. Any person who falsely signs this statement could be convicted of a violation of S. 12.13(3)(a), (am), Wis. Stats. If a person seeking to become a candidate advises you that they have been convicted of a felony, your best approach is to advise them that they cannot be a candidate and discourage them from filing ballot access documents, including nomination papers, a Declaration of Candidacy and Campaign Registration Statement.

COUNTY AND MUNICIPAL CLERKS

July 1, 1997

Page 2

If it is brought to your attention that a person who is a convicted felon has filed ballot access documents, the matter needs to be resolved in consultation with your municipal or county