Know Your Voting Rights

From the Office of the Minnesota Secretary of State

2012 Voter Information

mnvotes.org

Are citizens allowed to vote if they…

- Have a brain injury?
- Are experiencing severe memory loss?
- Are developmentally disabled?
- Or have some other cognitive impairment?

In Minnesota, only a court may decide whether an individual is competent to vote.

No one else may make this decision, including spouses, children, caregivers, doctors, or nurses, even if they personally are convinced that the individual is not competent to vote. Individuals who are under guardianship, conservatorship or for whom someone else has power of attorney retain their right to vote unless it is specifically revoked by a court. (*Minnesota Statutes*, section 524.5-313 (c) (8))

Voters are entitled to assistance to cast their ballots.

Under Minnesota law, voters may receive assistance in marking their ballots by any person of their choosing—other than an agent of their employer, their union or a candidate. No person may assist more than three voters in marking their ballots. Alternatively, voters may choose to get assistance from two election judges of different major political parties or may use the AutoMARK ballot marking device found in each polling place. (*Minnesota Statutes*, section 204C.15)

Persons assisting voters <u>may</u> <u>not</u> in any way try to influence the voter's choices.

Doing so is a felony. As such, those organizing efforts to provide assistance to voters should consider providing safeguards, such as having two individuals provide assistance to voters together, to avoid any appearance of impropriety. (*Minnesota Statutes*, sections 204.C.15; 204C.41)

Persons assisting voters <u>must</u> <u>not</u> mark the ballot if the voter cannot communicate his or her intent.

It is not enough to "know" how the voter wants or might want to vote. The voter must be able to express their preference and direct the person providing assistance to mark their ballot. If the voter cannot communicate his or her intent in a way in which the assistant can understand, the assistant <u>must</u> <u>not</u> mark the ballot—doing otherwise is a gross misdemeanor. (*Minnesota Statutes*, section 204C.16)

Adapted from "Voting and Cognitive Impairments: An Election Administrator's Perspective" by Vermont Secretary of State Deborah Markowitz, appearing in McGeorge Law Review, Volume 38.

This document is available in alternate formats for individuals with disabilities.