

RE-ENFRANCHISEMENT!

A GUIDE FOR INDIVIDUAL RESTORATION OF VOTING RIGHTS IN STATES THAT PERMANENTLY DISENFRANCHISE FORMER FELONS



In 1962 Fannie Lou Hamer tried to register to vote. She was fired the same day, after working on the plantation for 18 years; her husband having labored there for 30 years. It is to her memory and all those like her that this Guide is issued, with the hope that the indignities and hardships of their past struggles will not have been waged in vain as we continue the ongoing struggle for a just democracy.

(Nkechi Taifa, principal author)

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The Advancement Project is a policy and legal action group that creates new strategies for achieving universal opportunity and a racially just democracy. We advance inclusion and equity, engagement of excluded communities, a multiracial, multicultural vision, innovative approaches to racial issues, challenges to structures that produce inequality, and workable solutions. Advancement Project's work centers on three major issues: opportunity to learn, power and democracy, and law enforcement reform.

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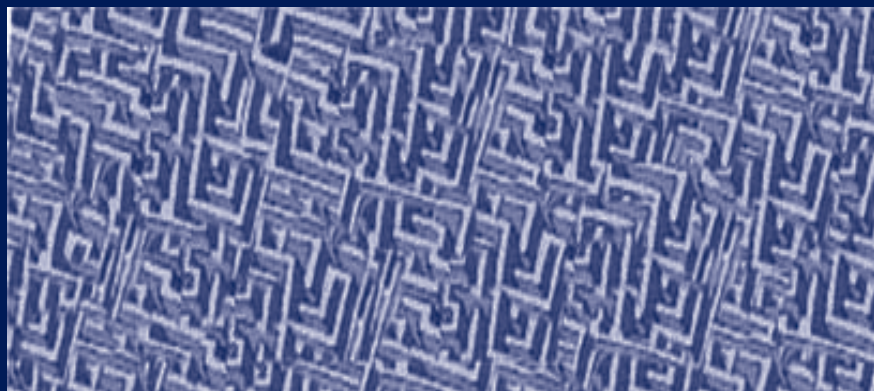
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PRELUDE

“WILT AND THE CRAZY-QUILT”

The convoluted matrix of arbitrarily-imposed requirements of the voting restoration process is brought center stage through the stylized scenario, “Wilt and the Crazy-Quilt.” This vignette depicts what could happen if a former felon had to comply with the labyrinth of rules and regulations required for re-enfranchisement by each of the 13 states that fail to provide automatic restoration upon release from imprisonment. The scenario is by no means meant to engender levity. Rather, it demonstrates the sober reality of the plethora of seemingly irrational obstacles to the voting process confronting former felons who have completed their debt to society. The term, “crazy-quilt,” advanced by the Department of Justice, is an appropriate depiction of the arbitrary patchwork of varying procedures and absence of uniform provisions governing disenfranchisement and restoration in the states.

Hello, my name is Wilt and I want to tell you about my journey through America’s crazy-quilt:

I have had my blood drawn and dutifully provided the required DNA sample to the authorities in Alabama. After much difficulty, I was able to muster the three letters of reference from people in my community. (I am not sure, however, if the governor of Virginia will deem my references to be reputable.) I have submitted to a psychiatric examination in Delaware. The Iowa authorities spoke to the warden regarding my deportment when I was in prison to ascertain if he believes my voting rights should be restored. (I have no idea what the warden said; he didn’t even know me). I hope I have adequately demonstrated to the Florida governor that I have no history of mental instability or alcohol abuse. (I wasn’t sure how to demonstrate I had no history of drug abuse as I was an addict convicted of a drug offense).

I have provided the requisite information regarding my marital history, my interests and leisure time activities, and even my religious preferences to the authorities in Maryland. (They also wanted to know the frequency of my attendance in religious activities. I really did not think that was any of their business so I left that space on the application blank.) Notice of my application for restoration has been provided to state attorneys, law enforcement officials and/or victims in the states of Alabama, Arizona, Delaware, Florida, Kentucky, Tennessee, Washington, and Wyoming. I even published my pardon petition for 30 days in the relevant Mississippi newspaper! The circumstances relative to my application have been exhaustively investigated in the states of Iowa and Maryland.

In Washington, because I was convicted on June 29, 1984, I had to submit to a horrendous, red tape ordeal. If convicted one day later, I could have qualified to vote automatically. In Tennessee, the situation was so convoluted and tangled that it pains me to even attempt an explanation of my eligibility status. I have divulged the date of birth of my ‘baby’s mama,’ the cause of death of my father, and the names and purposes of all organiza-

tions of which I am a member, as required by Florida.

I have demonstrated civic service in Virginia, and, after an ordeal, managed to obtain the required certified copies of every conviction and sentencing order for the Virginia authorities. Florida has refused to grant me a waiver from the requirement that I satisfy all fines, traffic tickets, debt and child support owed, even though I have been unable to obtain steady employment since my release from prison. (I thought poll taxes were abolished forty years ago. Fortunately, however, I was able to borrow the money, but I have no idea when I will be able to pay it back).

Even before embarking on this restoration process, I waited the requisite 20 years in Maryland and 7 years in Virginia before beginning my journey for re-enfranchisement, as I was convicted of a non-violent drug offense. (Ironically, I can't understand why, but if I had committed murder, rape or another violent crime, I would "only" have had to wait 5 years in Virginia before starting the restoration process. And, someone please explain to me the difference between the obligatory 3 year wait in Alabama and Delaware versus the 10 year wait in Maryland for crimes other than drugs or violence?

And now, I am patiently awaiting the discretionary decision of the governors of six states as to whether they will permit me to vote, and the bureaucratic procedures of 7 others. Having already conformed to all the cumbersome application requisites, I have thus far been waiting three years in Florida, and six months in Washington, Wyoming, and Iowa, for the wheels of justice to turn. In Mississippi I am awaiting the verdict of 2/3 of the Mississippi legislature as to whether I can vote. (Inexplicably, if I were a WWI or WWII veteran convicted of rape, I would have been able to vote automatically in Mississippi; but alas, I am a Viet Nam era veteran, convicted of a nonviolent drug possession offense. As such, I am ineligible for immediate re-enfranchisement.) And finally, despite my good faith submission to the intrusive, tortuous, and often bizarre requirements, my application was nevertheless denied because I neglected to reproduce my pardon application in quadruplicate, as required by the state of Florida.

All of these impediments are strangely reminiscent of the voting obstacles of America's past. I am Ellison's proverbial "invisible man." I feel like a pariah, an outcast. In the eyes of the state, I don't count, and it appears as if I can never be redeemed. I could be male, female, black, white, Latina. I could be Muslim, Christian, Buddhist, Jewish, liberal or conservative. In the eyes of the law, it doesn't matter. Everyone who comes into the system goes out with the same obstacles. Of course I'm not stupid. One's position in life dictates how well one overcomes these obstacles. As such, the playing field must be leveled. Everyone should be able to vote regardless of where they live and how well they are able to weave their way through this crazy-quilt. I will say this - yes, I admit I made a mistake, but I paid for it. Yet, I am still told, through the denial of my right to vote, that I will never be restored to full citizenship. To give respect, it is only fair to be treated with respect. Re-enfranchisement now!

EXECUTIVE SUMMARY

Across the board, laws governing the disenfranchisement of former felons seem intended to restrict the kinds of people who can participate in the political process. Indeed, such disenfranchisement is a surviving vestige of the historic and systematic exclusion of people of color from voting. This remnant is part of the panoply of barriers that fit under the rubric of “structural disenfranchisement,” a term coined by the Advancement Project to connote the modern equivalent of discriminatory obstacles which perpetuate inequity and exclusion from the franchise.¹ The blatant literacy, “understanding,” and “interpretation” tests, and the infamous poll taxes, grandfather clauses, and white primaries — relics of past injustices — are no longer overtly employed. Mass disenfranchisement, however, of a powerless sector of the populace, allows the shadow of these phantoms from the past to clandestinely continue the obstacles which deny full participation in the political process.

Currently, 48 states and the District of Columbia deny convicted felons the right to vote during their period of incarceration.² Only the states of Maine and Vermont allow persons in prison to vote.³ Convicted felons in 32 states are prohibited from voting while they are on parole, and 28 of these states disenfranchise those on probation.⁴

In 38 of the States (and in DC), persons with felony convictions either never lose the right to vote or automatically have that right restored at some point after they are released from incarceration. This report and guide refers to these states and DC as “automatic restoration” states. In 13 states, former felons who have completed their sentences can be disenfranchised for life despite having completely paid their debt to society. (Eight states permanently disenfranchise all former felons - AL, FL, IO, KY, MS, NV, VA, WY; five states permanently disenfranchise some (AZ, DE, MD, TN, WA).

After thirty years of relative obscurity,⁵ the issue of former felon disenfranchisement is now being scrutinized by pre-eminent scholars, policy analysts, statisticians, commissioners, legislators, and judges, and has been the subject of studies, reports, investigations, legislation and litigation.⁶ A lawsuit was filed in Florida, challenging that state’s felony disenfranchisement system on race discrimination grounds.⁷ Advancement Project agrees that it is difficult to discern any rehabilitative value in disenfranchisement. Barriers to the restoration of voting rights upon release from incarceration, or while on probation or parole, are tainted by a racially motivated history and are antithetical to the democratic values inherent in an open society.⁸ This report will not rehash the excellent research and analysis that criticizes felony disenfranchisement in general and permanent disenfranchisement in particular. We do note that former felons fortunate to reside in states with automatic restoration are often oblivious to the fact that they can vote and are rarely given this information upon release. We present policy suggestions and we suggest strategies that activists can use to provide accurate information to former felons in these states and help them to register and vote. What has been noticeably absent from this mix, however, is a concerted, sustained effort to insure that state systems as they now stand are accountable and being effectively utilized, as ongoing legislative and litigation strategies seek systemic reform.

This report breaks new ground by focusing on the individualized, case-by-case process for regaining the vote that exists in the 13 states that do not provide automatic restoration of the right to vote for former felons and

thus permanently disenfranchise huge numbers of citizens who would be eligible to vote if they resided in another state. (We refer to these as “permanent disenfranchisement” states.⁹) In each of these states, a procedure exists for at least some former felons to apply for restoration of the vote.¹⁰ Various terms, “clemency,” “pardons” or simply “restoration of civil rights,” these case-by-case procedures are intended to be the safety valve that permits rehabilitated offenders to regain a basic element of citizenship.

Obviously, a case-by-case, individualized process for restoring the vote is more cumbersome, time-consuming and burdensome than automatic restoration, which we support as the preferred alternative. Yet, in-depth attention to the restoration processes that currently exist in these states is valuable for several reasons. First, efforts to eliminate permanent disenfranchisement systems take time and in most states face an uphill battle. In the meantime, case-by-case procedures represent the proverbial “bird in the hand.” These procedures currently exist and might, if used by large proportions of eligible former felons, result in restoring quite large numbers of persons to the voting rolls. But, in order to use the processes, former felons must know that they exist and understand how to get through the burdensome and often convoluted barriers placed between former felons and the right to vote. Advancement Project hopes to inspire attorneys, paralegals and other trained assistants to provide help and guidance to former felons in completing the application process.

Second, it is likely that flooding state officials with huge numbers of applications for re-enfranchisement and then monitoring how those applications are processed, will expose the many fault lines in the existing system and possibly fortify the argument in favor of abandoning an irrational, time-consuming, delay-ridden system in favor of automatic restoration.

Third, to date, decisionmaking on re-enfranchisement applications generally has occurred behind closed doors, with little public information on the standards or criteria that govern the final outcome. This type of discretionary, secret adjudication creates a huge opportunity for illegitimate factors, such as race, political affiliation, etc., to influence whether the application is granted or denied. This report and guide seek to shine a spotlight on these decisions, pushing for transparency and consistency.

Our research produced several noteworthy findings. In the 13 permanent disenfranchisement states, former felons are not commonly informed about the procedures necessary to regain their right to vote, and many incorrectly believe that they can never vote again.¹¹ And, persons in these states who are aware of the existence of a discretionary restoration process often face a myriad of cumbersome conditions, prerequisites, rules and regulations. And for those who, despite the hurdles, are nevertheless determined to complete the application process so they can vote, the slightest technical mishap could place one back at square one. The permanent disenfranchisement states incorporate arbitrary and oftentimes illogical policies and procedures governing their respective restoration processes. Many of the procedures are not only tedious, but extremely complex, incorporating a level of sophistication daunting for the literate and illiterate alike.

This Report provides the first, comprehensive guide for former felons seeking to navigate through the labyrinth of complex technicalities, convoluted legislative formulae, and other confusing procedural requirements standing in the way of their right to vote. The Prelude, “Wilt and the Crazy-Quilt,” vividly sets the stage,

as it follows a hypothetical former felon through the plethora of irrational obstacles that exist in the 13 states that fail to provide automatic voting restoration upon one's release from imprisonment. *Re-Enfranchisement!* is divided into three parts: 1) the Report; 2) a State-by-State Guide to the Restoration Process; and 3) a Guide to National, State, and Local Resource Organizations.

The Report builds upon previously published research and analysis on this issue. It contains six sections: Section A provides an overview of the issue and discusses its history. It illuminates the racial underpinnings of many of the disenfranchisement laws of today, providing an historical backdrop for the current statistics and impact these laws have generated. The experience of former felons today is a sequel to the tragic drama of machinations and manipulations involving the executive, legislative and judicial branches of government to disenfranchise those formerly held as slaves. Indeed, felon disenfranchisement was often touted as “insurance” should other overt means of denying blacks the vote be overturned.¹² Insurance, sadly, which has paid off for not just 1.4 million African Americans but, in total, 3.9 million Americans in 49 states who are precluded from voting while incarcerated.¹³

Section B shows that the impact of this collateral consequence of a felony conviction is formidable.¹⁴ An estimated 3.9 million Americans, or one in 50 adults, have currently or permanently been deprived of the right to vote as a result of their felony convictions.¹⁵ Former felons who have completed their sentences constitute 1.4 million of the persons disenfranchised.¹⁶ Nearly 73% of those disenfranchised are not even in prison, but are on probation, parole, or have completed their prison sentences,¹⁷ and have post-prison obligations (e.g. restitution) to fulfill before they can apply for restoration of their rights. Over half a million women have lost the right to vote as well, showing that conscious or unconscious, the effect is surprisingly similar to historical schemes to suppress the black vote — the disenfranchisement of over a million African Americans through the structural mechanisms of the criminal justice system.¹⁸

Although disproportionately impacting black people, disenfranchisement crosses racial, ideological, and political lines. As analogized by Professors Lani Guinier and Gerald Torres, because of the transparency of race, issues impacting African Americans often serve as the “miner’s canary,” providing an early signal to problems that will ultimately impact other groups as well.¹⁹ And so it is with felon disenfranchisement, an issue which, although disproportionately impacting African Americans, signals a deleterious effect on democracy as a whole.

Section C of the Report highlights personal accounts of felony disenfranchisement, while Section D of the Report compares and contrasts the chaotic maze of nuances, anomalies, and other peculiarities that comprise the matrix of laws in the 13 states which do not provide for automatic re-enfranchisement upon release of sentence. Whether the barrier is the subjectivity inherent in the discretion of the governor as to whether or not a pardon²⁰ will be granted; the seemingly arbitrary notice and investigatory provisions; the nonsensically prolonged waiting periods; the convoluted eligibility requirements; or the technicalities of the application process, the cumulative impact is clear. All of these obstacles produce dismally low numbers of former felons who are actually re-enfranchised upon application.

Section E exposes the problems inherent in the current system exhibited by denials, delays and backlogs. All

of these obstacles continue to prevent former felons from recognizing their right to vote.

Section F analyzes the various procedural schemes for re-enfranchisement and concludes that a blanket policy embracing automatic restoration in all 50 States and the Stateless District of Columbia is the most practical and uniform way to address the crisis.

Part Two of *Re-Enfranchisement!* provides a comprehensive, state-by-state roadmap to the restoration processes and procedures of the 13 states currently subjected to a discretionary, non-automatic restoration process. The Department of Justice maintains a cursory guide to restoration in each of the 50 states on its web page. It is essential that information detailing voting rights restoration be broadly disseminated and readily accessible to all strata of society, and that advocates use these resources to assist former felons with restoring their right to vote.

In a report issued by Americans for Democratic Action Education Fund, felony disenfranchisement was characterized on four fronts: as a prison reform issue, a democracy issue, a civil rights issue, and an election reform issue.²¹ Viewed from this comprehensive characterization, a holistic approach to reform encompassing each of these constituent parts, should be undertaken. Part Three helps to move in that direction by providing two types of resources. First, we recommend a comprehensive set of policies that approach the problem from the broadest perspective. In addition to the ideal, mostly systematic reform measures, this section includes pragmatic ideas for less sweeping innovation where the ideal is not currently achievable. Second, Part Three includes a Guide to National, State, and Local Resource Organizations that are currently working on this issue or might be interested in it. We list selected national organizations that focus on civil and human rights, democracy, and election reform issues, as well as state and local organizations that specialize in prison reform issues and offender rehabilitation programs in the 13 states most negatively impacted by felony disenfranchisement laws.

In sum, the felon disenfranchisement laws have no place in an open, democratic society. They arbitrarily deny one segment of the populace the right to participate fully in the political process, for no other discernible reason than punishment. One is subject to these laws by the happenstance of one's geographic location and, frequently, by the disproportionate impact of punitive law enforcement policies and practices in people of color communities. The perpetual effect of the punishment does not fit the crime, which often appears to be handed down in an irrational and arbitrary fashion. It is hoped that this Report will serve as an oar with which to navigate the morass of obstacles to the voting restoration process, and equip former felons and their advocates with the technical assistance needed to succeed, even as the upstream struggle for a just democracy continues.

THE REPORT

A. History of Felony Disenfranchisement

Although disenfranchisement laws date back to the founding of this country, it was not until the Reconstruction era and the ratification of the Fifteenth Amendment that these laws took on their present day significance and racial impact.²² The Fifteenth Amendment prohibited the states from denying voting rights to U.S. citizens based on “race, color, or previous condition of servitude.”²³ Southern states, however, were opposed to the reconstruction and enfranchisement of those formerly held as slaves, sought to legally deny blacks this newly recognized right during their constitutional conventions. Their aim was to deny as many blacks as possible of the franchise, while not running afoul of the Fifteenth Amendment, and maintaining the franchise for as many whites as possible.²⁴ Their constitutional conventions instituted a number of voting barriers, including literacy tests, poll taxes, understanding clauses, grandfather clauses, and felony disenfranchisement.²⁵ Over time, all of these barriers to voting have been struck down with the exception of felony disenfranchisement.²⁶

The rhetoric and intent of these constitutional conventions were clear and unambiguous. In Virginia, one delegate proclaimed, “Discrimination! That, exactly, is what this Convention was elected for ... with a view to the elimination of every Negro voter ...”²⁷ Another Virginia delegate declared that “everybody knows that this Convention has done its best to disenfranchise the Negro.”²⁸ The Virginia convention specifically chose, as the basis of disenfranchisement, those crimes it felt blacks were more likely to commit.²⁹ Indeed, Delegate Carter Glass surmised that this “plan of popular suffrage will eliminate the darkey as a political factor in this state in less than five years ...so that in no single county of the Commonwealth will there be the least concern for the complete supremacy of the white race in the affairs of government”³⁰ The carefully crafted disenfranchisement scheme worked favorably for Virginia. In fact, the number of registered black voters in Virginia in 1910, dropped to 15% of the eligible black voters in the state.³¹

The intent and actions of the Alabama convention closely mirrored the Virginia convention. The President of the Alabama Constitutional Convention, John B. Knox, stated that the goal of the convention was “to establish white supremacy ... within the limits imposed by the Federal Constitution.”³² In 1901, the convention changed the Alabama State Constitution to disenfranchise those who could not “read and write any article of the Constitution of the United States in the English language.”³³ In redrafting their constitution, delegates intentionally left out “robust” crimes that they felt whites would be just as likely to commit as blacks, such as murder.³⁴ After the ratification of the revised constitution, Alabama had only 3000 of its 180,000 eligible black voters registered to vote — less than 2% of the eligible black voters in the state at the time.³⁵

One of the most alarming reconstruction constitutions was the one enacted by the state of Mississippi. This convention was, in fact, used as the prototype for the conventions of other southern states.³⁶ The Mississippi convention replaced its old disenfranchisement provision, which affected citizens of *any*

crime, with a provision that disenfranchised only those citizens convicted of certain enumerated crimes — crimes which the convention believed were committed more often by blacks.³⁷ “The ultimate ideal, of course, was to exclude all negroes and no whites.”³⁸ In 1867, prior to the constitutional convention, 70% of the eligible black voters in Mississippi were registered to vote. Two years after the enactment of the disenfranchisement laws of the 1890 convention, that number plummeted to less than 6% of the eligible black voters.³⁹ During this same period, blacks outnumbered whites in the state of Mississippi.⁴⁰ In Amite County, Mississippi, of the 2,560 eligible black voters, only one was registered, while 3,295 of the 4,449 eligible white voters were registered in that same county.⁴¹ Florida and Texas combine to disenfranchise over 1.2 million individuals, 29 percent of the total 4.2 million disenfranchised Americans.

B. Current Impact of Felony Disenfranchisement

The racial motivations behind the enactment of the felony disenfranchisement laws in the southern states are well documented and readily acknowledged.⁴² It is within this historical context and political climate that the current impact of these laws in all the states must be scrutinized.

The impact of disenfranchisement laws on the black community is severe. According to the 2000 census report, blacks comprise approximately 12.3% of the United States’ population.⁴³ Of the 3.9 million disenfranchised people in this country, black males comprise 1.4 million, a rate that is seven times the national average.⁴⁴ This represents 13% of the total black male population in this country,⁴⁵ or 36% of the total disenfranchised population in the United States.⁴⁶ In seven of the eight states that permanently disenfranchise all former felons, 25% of all black men have lost the right to vote.⁴⁷ Given incarceration rates, it is estimated that in the future, this number will rise to 40%.⁴⁸ Further, the alarming rate at which Latino youth are being incarcerated leaves the potential for future disenfranchisement of this rapidly growing population a stark reality. For example, Latinos/as constituted 24% of youth whose felony cases were filed in 18 adult criminal courts in 1998⁴⁹ (Juskiewicz, 2000), although they comprised only about 12% of the general population.⁵⁰

While the disproportionate effect of felon disenfranchisement on African Americans and Latinos/as is troubling on its own terms, the reasons for this disproportionality are even more so. Scholars have consistently reported that people of color are often targeted, prosecuted, convicted, and incarcerated at higher rates than similarly situated whites.⁵¹ For example, Latino/as are incarcerated at rates 7-17 times greater than those of whites in some states.⁵² Such discriminatory actions inherent in the criminal justice arena translate into discriminatory results in the voting rights arena. The damaging, structural impact is compounded when one considers the role of historical discrimination in terms of poverty, limited educational and employment opportunities, as well as residency in depressed areas – all of which tend to correlate with higher arrest and incarceration rates. Moreover, the proliferation of mandatory minimum sentencing laws,⁵³ including three-strikes⁵⁴ and the crack/powder cocaine disparity,⁵⁵ have increased dramatically the numbers of African Americans incarcerated. Indeed, the United States Sentencing Commission⁵⁶ has found that both mandatory minimum penalties in general and the cocaine penalties specifically were being enforced in a racially discriminatory manner.⁵⁷ All of these factors result in the

disproportionately high numbers of colored people disenfranchised.

A statistical look at the current effects of felony disenfranchisement on the state level further illuminates the harshness of these laws. Virginia disenfranchises more than 4% of its adult population,⁵⁸ meaning that more than one in every twenty-five adults in the state of Virginia are not allowed to vote due to a felony conviction. More than 125,000 convicted felons who have completed their sentences, parole, and probation are permanently disenfranchised as well.⁵⁹ One in every four (25%) adult black males is permanently disenfranchised in Virginia.⁶⁰

Alabama also denies approximately 4% of its adult population the right to vote,⁶¹ totaling close to 250,000 of its citizens.⁶² About one half, 125,000, of those disenfranchised in Alabama are convicted felons who have completed their sentences and are no longer subject to the jurisdiction or supervision of the criminal justice system.⁶³ Thirty-one percent of all adult black males in Alabama are permanently disenfranchised,⁶⁴ compared with an overall rate of 7.5%.

Mississippi denies more than one in every 25, or 4%, of its adult citizens the right to vote,⁶⁵ disenfranchising approximately 125,000 former felons.⁶⁶ While Mississippi has an overall disenfranchisement rate of 7.4%, the black male rate is four times greater at 28.6%.⁶⁷

Florida and Texas lead the nation in the number of citizens disenfranchised at 600,000 in each state, constituting over 1 in every 25 of its adult population.⁶⁸ Florida enjoys the dubious distinction in also leading the nation in the number of former felons disenfranchised as well. One-third of all the disenfranchised former felons are in Florida.⁶⁹ Blacks in Florida fare no better than their brethren in other states. Along with Alabama, Florida leads the nation in permanently disenfranchising black males with 31% of its adult black male population being denied the right to vote.⁷⁰ In a study conducted in two poor and predominately black communities in Tallahassee, Florida, the researcher was unable to find a single family there without at least one disenfranchised man.⁷¹

The other states that have the potential to permanently disenfranchise former felons share similar statistics.⁷² And, some of the states with automatic voting restoration procedures have statistics just as disappointing as their sister states. The state of Texas, for example, which disenfranchises felons while jailed, on probation, and parole, denies some 600,000 of its citizens the right to vote.⁷³

C. Personal Accounts

The accounts of Sam Jordan and Omali Yeshitela shed a personal perspective that illuminates the statistics. Sam Jordan, the current director of a health care consumer advocacy group, was released in 1971 after serving nine months of a two year sentence in a Pennsylvania prison. Jordan sought to vote and run for public office in 1988 in Warrenton, Virginia. After discovering that he would need the permission of the governor, as well as three letters from “civil, institutional leaders who knew him and lived in Virginia,” he lined up his references. He was then told that he had to wait five years before he could apply for voting restoration. Frustrated, he left Virginia to pursue opportunities elsewhere.⁷⁴

In fact, the information Jordan was told about the five year wait was inaccurate, illustrating a widespread problem with lack of access to accurate, usable information about how to obtain restoration of the vote. It had already been nearly 20 years since Jordan's release from imprisonment and the five year statutory waiting time had long been fulfilled. Jordan should not have been told he had to wait an additional five years before applying to vote.

Omali Yeshitela, an African American resident of Florida and one of the named plaintiffs in a class action lawsuit that was filed on behalf of more than 600,000 state residents,⁷⁵ was permanently disenfranchised as the result of a 1966 conviction for participation in a civil rights protest. His offense — removing a canvas mural caricaturing African Americans from the St. Petersburg City Hall.⁷⁶ Interestingly, after nearly 35 years, Yeshitela's petition for restoration was finally granted just days after the filing of the lawsuit.⁷⁷

D. Nuances and Anomalies in Re-enfranchisement Procedures

In comparing and contrasting the chaotic maze of nuances, anomalies and other peculiarities that comprise the matrix of laws in the states which fail to provide automatic restoration upon release of sentence, one searches in vain for coherence or rational meaning underlying the various provisions.⁷⁸ The only constant factor appears to be the degree of difficulty built into the structure, which stymies one's incentive to even commence the restoration process.

1. Role of the Governor

The governor is permitted to make the decision as to whether or not a former felon's voting rights will be restored in the states of Alabama, Delaware, Florida, Iowa, Kentucky, Maryland, Mississippi, Tennessee, Virginia, Washington, and Wyoming. In six of these states, a judgment by the governor is mandatory (AL, FL, IO, MD, VA, WY); and in six states, a decision by the governor is one option that can be chosen in specified cases (AZ, DE, KY, MS, TN, WA).⁷⁹

In Alabama, for example, the governor must grant a pardon that expressly states that the former felon's right to vote has been restored. In the states of Florida, Iowa, Maryland, and Wyoming, the applicant is successful if the governor either grants the former felon a pardon or issues an order restoring her civil rights. Although in Virginia, former felons may seek re-enfranchisement through the courts, the governor must nevertheless approve the court order. Tennessee and Washington have adopted even more complex re-enfranchisement systems which allow the former felon to elect to seek a pardon from the governor. The systems in Arizona and Kentucky, while less cumbersome, also include the governor's pardon as an available vehicle for restoration. In Delaware, some former felons can either defer their right to vote for five years after conclusion of their sentences, or enjoy the franchise earlier through the governor's pardon authority. Uniquely peculiar, in addition to a pardon, the only avenue available in Mississippi for re-enfranchisement is a two-thirds vote of the state legislature.

The inclusion of the discretionary decision of a governor as an essential element of the restoration process makes re-enfranchisement more formidable, interjecting an unwarranted level of subjectivity.⁸⁰ As expressed by John Orsini:

[It] introduces a heavily scrutinized, highly politicized decision-maker who is asked to grant some form of clemency to a convicted felon in this age of tough-on-crime rhetoric. While governors have the ultimate freedom to grant clemency, they are beholden to their constituents, their image, and their career aspirations. All three inspire little sympathy for convicted felons, and militate against grants of clemency in all but extraordinary circumstances. This similarity among the discretionary restoration states exhibit a common desire to institutionally shunt restoration through the structure of the restoration process.⁸¹

2. Nature of Offense Resulting in Disenfranchisement

Three states — Delaware, Maryland, and Tennessee — each permanently disenfranchise those persons convicted of election-related offenses. The prevention of electoral fraud is the only rationale that arguably may have some bearing to a legitimate state interest. Ostensibly, the disenfranchisement of those convicted of fraudulent voting practices could have an important nexus to the sanctity of elections.⁸² The civil disability of permanent disenfranchisement, however, is an extreme sanction. Justice Thurgood Marshall in his dissent in the case of *Richardson v. Ramirez*, 418 U.S. 24 (1974), where the Supreme Court declared former felon disenfranchisement constitutional, argued that felony disenfranchisement laws are too inclusive, because they disenfranchise felons who committed non-electoral crimes, and they are too exclusive, because election fraud is a misdemeanor in many states and, thus, cannot be punished via disenfranchisement.

Delaware and Tennessee, in addition to singling out election-related offenses — also designate other crimes for which one can be permanently barred from voting for life.⁸³ Although there is no doubt that serious crimes such as murder or rape are egregious, they have no comparable connection to the prevention of election fraud. In fact, crimes involving trust such as embezzlement would arguably fit more legitimately within the rubric of election fraud than violent crimes of murder and rape. As noted by John Orsini, “forty-eight states have knowingly subjected their elections to the dangers posed by released murderers and rapists who can vote.”⁸⁴ The fact that these forty-eight states have survived “suggests that there is no real danger of election fraud by discharged violent felons.”⁸⁵ The issue of violence did not deter Mississippi from allowing certain persons to vote. Interestingly, Mississippi allows a category of felon, World War I and World War II veterans, to circumvent its antiquated pardon and legislative process and vote automatically.⁸⁶ Department of Justice statistics reveal that incarcerated veterans are most often convicted of violent crimes, most notably homicide and rape.⁸⁷ Moreover, if the purpose of the Mississippi statute is to provide a benefit to those who have served their country, then such benefit should be accorded across the board. Instead, the bonus is restricted to veterans of a war which comprises only one percent of both State and Federal prisoners,⁸⁸ and who are primarily white.⁸⁹ Vietnam era veterans, on the other hand, account for the most common wartime veterans

incarcerated.⁹⁰

3. Notice and Investigation Procedures

Other nuances which serve to militate against re-enfranchisement for former felons, are the various notice and investigatory provisions in ten states (AL, AZ, DE, FL, IO, KY, MD, MS, TN, WY). Generally speaking, such provisions require notification to the prosecuting authorities, law enforcement officials and/or victims – sometimes all three. Seven states expressly require such notice (AL, AZ, DE, FL, KY, TN, WY). In Iowa and Maryland, the state is authorized to conduct an investigation which could lead to this type of notice to interested parties. Mississippi's notice provision is particularly sweeping. Not only does it allow an investigation into the pardon application; it mandates that the applicant publish his pardon petition for 30 days in a reputable newspaper in the county where the crime occurred. The logical result of these notice provisions is obvious. It interjects the opinions of persons who had input, directly or indirectly, in the restoration applicant's arrest, conviction and sentence, thus potentially negatively impacting the applicant's re-enfranchisement.⁹¹

4. Waiting Periods

Six states impose widely varying waiting periods before a former felon can be eligible to apply for restoration of her voting rights (AL, AZ, DE, FL, MD, VA). In Alabama, Maryland, and Virginia, the waiting period is mandatory, yet varies dramatically. Maryland imposes a ten year waiting period for most felonies; however violent criminals and drug felons have to wait twenty years before they are eligible to apply for re-enfranchisement. Offenders convicted of drug distribution offenses, violent crimes and voting fraud are not allowed to participate in the political process for five years. Former felons convicted of non-violent offenses are now required to wait three years before seeking a pardon from the Virginia governor.⁹² There is an obligatory three year wait in Alabama, unless the sentence is for less than three years.⁹³

Arizona, Delaware and Florida incorporate varying waiting periods dependent upon the applicant's method of seeking re-enfranchisement. For example, in Arizona, there is no prescribed waiting period for those on probation or seeking a pardon, but applicants for restoration through the courts must wait two years from completion of their sentence before they are eligible to seek re-enfranchisement.

The timing of eligibility for restoration in some states depends upon the type of crime and date of the conviction. Voting rights are automatically restored upon completion of one's sentence if convicted in Washington after June 30, 1984. If convicted prior to that date, however, a complicated matrix of options tied to the nature of the sentence confronts the former felon. Tennessee has perhaps the most procedurally tangled restoration process of all the states. Repeated changes to the relevant laws which were not made retroactive have resulted in five different systems for re-enfranchisement, depending on the date of conviction.⁹⁴

5. Other Anomalies

There are other anomalies unique to particular jurisdictions. For example, Delaware requires submission to a psychiatric examination as a precursor to voting restoration. Virginia demands three letters of reference from “reputable” people in the community and demonstration of civic responsibility. Florida inquires into any history of mental instability or drug or alcohol abuse. Iowa solicits the discretionary views of the warden as to whether a former felon should be allowed to vote. Maryland delves into the applicant’s marital history and social and leisure activities, as well as constitutionally suspect inquiries into one’s religious preferences and frequency of religious observances.⁹⁵

One of the more intrusive conditions is Alabama’s unique requirement for a DNA sample from persons seeking to restore their right to vote.⁹⁶ Pursuant to the Alabama DNA Database Act which became effective on May 6, 1994, an individual who is convicted of any felony offense or for one of the enumerated misdemeanor offenses must provide a DNA specimen to the Department of Forensic Sciences for DNA identity testing.⁹⁷ As of June 1998, the 50 states and the District of Columbia already require convicted felons to provide such samples for DNA databases.⁹⁸ While perhaps not so onerous for Alabama prisoners incarcerated or released after 1995 who are required as part of their entry or release from the prison system to submit a DNA specimen, those former felons released prior to the implementation of the Alabama DNA Database Act of 1994, or seeking to vote in Alabama but convicted in another state before 1998, must nevertheless pay to have their bodily fluids extracted to comply with the Alabama regulation.⁹⁹

E. Denials, Delay, and Backlog

For this report, Advancement Project sought to obtain from each of the 13 states that permanently disenfranchise former felons the following information: number of ex-offenders eligible to apply for re-enfranchisement; number of application forms requested, number of applications submitted; and number of requests granted. While much of this data was not available, the information we were able to obtain is revealing.

It is clear that only a tiny fraction of the eligible former felon population submit re-enfranchisement applications. An investigation into all of the causes of a low application rate is beyond the scope of this Guide. However, the data suggests that the application itself (and accompanying legal documents, references and background information, etc.) is a substantial barrier. In states where the information was available, we found that, typically, less than half of those who request the application forms actually submit a completed application.

When applications are submitted, widely varying levels of success result. For example, only one-half of one percent of the applications for clemency or pardon succeeded in Tennessee, while Iowa reports restoring the

vote to about 90% of its applicants. A detailed description of the data we were able to obtain follows. Tennessee clemency statistics reveal that during Governor Sundquist's term, 1994 to the present, 1,503 applications for commutation were requested.¹⁰⁰ Only a little over half who sought an application form (811) actually completed the process to submit an application.¹⁰¹ Only 10 commutations were granted and of those 10, seven commutations were revoked by the governor.¹⁰² Requests for pardons did not fare any better in Tennessee. During the same time period, 304 applications for pardon were requested, with 97 applications actually submitted.¹⁰³ Hearings were granted for 18 and, out of nearly 100 requests, only 5 pardons were granted.¹⁰⁴ The convoluted eligibility scheme in Tennessee is most likely responsible for the vast difference in the numbers of applications requested and those submitted.

In Iowa, prior to the development of a short form in April 2001, applications took up to a year to process. The short form has reportedly cut the time down to four to six months.¹⁰⁵ In 2000, Iowa received 575 applications for re-enfranchisement, of which 90% (509) were granted, while 66 were denied.¹⁰⁶ In 2001, the state received 537 applications and thus far only 363 have been granted.¹⁰⁷ Reportedly due to the events of September 11, 2001, there was a delay in processing, resulting in 170 active applications on file awaiting decision. To date, 50 applications have been denied for 2001. In response to the question as to the reasons for granting or denying a request for restoration in Iowa, it was simply explained, "The governor has the final determination over an application, and complete discretion."¹⁰⁸

In Delaware, since July 2000, Newcastle County has received 1,472 applications for restoration of rights. The database does not indicate how many of those applicants were successful, but an elections department specialist estimates that prior to the November 2000 election, approximately 50% of applicants were restored; nearly half were denied.¹⁰⁹ In Nevada, since October 2001, 50 applications have been requested, yet only 19 people completed and submitted their applications. Of those 19 who applied, only 4 petitions have been granted, and 6 denied.¹¹⁰

Virginia had 200,000 former felons in 1998; yet only 404 former offenders had their voting rights restored in 1996 and 1997.¹¹¹ In Alabama in 1999, about 15% of pardon requests were denied.¹¹² Arizona estimates receiving 100-150 court orders restoring civil rights each year.¹¹³

With respect to backlog and delay, one of the more egregious states for which statistics are available is the state of Florida. As of February 2002, the Florida Parole Commission reported a backlog of between 26,000 - 35,000 applications — a figure projected to rise to 59,000 by June 2003.¹¹⁴ Although the Office of Executive Clemency reports that, depending on the process and the applicant, a year is the absolute minimum length of time for an application to be processed,¹¹⁵ a news article reported that there was a three-year backlog as of June, 2001.¹¹⁶ A Florida activist with Citizens United for the Rehabilitation of Errants (CURE) says that the process takes two years.¹¹⁷

Florida re-enfranchised only 1,400 people in 1997 and fewer than 2,500 former felons a year over the past ten years.¹¹⁸ In Florida, only one out of every 300 released former felons had their civil rights restored in 2000.¹¹⁹ As noted by one activist, "Restoration of civil rights in Florida is a joke ... The detail of paperwork required by the Clemency Board would fill two file cabinets with 50 sources, spanning 20 years of a person's life."¹²⁰

As of March 2002, six persons were reported to work in the Florida Office of Executive Clemency.¹²¹ A recent request by the Parole Commission for \$2.5 million in additional funding to hire at least 29 more workers to process clemency applications was approved by the Florida State Legislature, but that figure was decreased to the \$622,000 requested by the Governor, which covers only 14 new positions.¹²²

The Florida Department of Corrections also bears some of the responsibility for the failures of the State's clemency system. Precipitated by a lawsuit, *Florida Conference of Black State Legislators v. Moore*,¹²³ in June of 2001 the head of Florida's Department of Corrections admitted that despite its statutory obligation to assist former felons with clemency applications, the Department had failed to identify all of the felons who were eligible for the expedited application process, blaming outdated computers and ignorance of changes in the eligibility requirements.¹²⁴

Alabama's DNA requirement probably has contributed to delay in that state. A U.S. Department of Justice Survey of DNA Crime Laboratories reports that as of January 2001, 81% of these laboratories had a backlog, totaling 265,329 samples.¹²⁵ Even the 45% of crime laboratories surveyed who contracted with private laboratories also had a backlog of 100,706 samples.¹²⁶ While these represent national statistics, there is nothing to suggest that Alabama's DNA backlog statistics vary from the national norm.

F. Analysis of Re-enfranchisement Schemes

What has caused these anomalies, and the incredible hurdles confronted by our imaginary character Wilt in the prelude scenario? Are the practices a part of a conspiracy designed to dilute the voting strength of people of color?¹²⁷ Are they the unforeseen consequences of a legitimate belief in the protection of the purity of the ballot box?¹²⁸ Or are they just a random collection of non-racial requirements which, in fact, bear a legitimate connection to a rational state objective? It is not within the purview of this Report to answer these questions. Other reports less singularly focused have exhaustively proffered answers to these nagging questions.¹²⁹ Suffice it to say, however, that a blanket policy embracing automatic restoration in all 50 states and the stateless District of Columbia is the most practical way to uniformly address the crisis.

To find support for such a policy we need only consider the profound lack of uniformity among the states we have examined in this report. For example, states have varying waiting periods in force that determine the eligibility of former felons to apply for restoration of their voting rights. Whether, and if so how long, a waiting period applies may differ based on whether the applicant is seeking re-enfranchisement through the courts or through pardon procedures. These inconsistencies appear irrelevant, arbitrary, and capricious, and have no apparent nexus to any legitimate state interest.¹³⁰

Another re-enfranchisement eligibility scheme creates distinctions among classes of former felons in a manner that stands logic on its head. In some states, when or whether a former felon becomes eligible for restoration of voting rights depends upon the timing of statutory changes to the criminal laws of the state and the date of

conviction. There appears to be nothing inherent in the date of conviction or the date of implementation of statutes to warrant such distinctions. Rather, such peculiarities are yet another indication of the arbitrary and capricious nature of the restoration process. What is clear, however, is that there is no agreement among the states as to when a former felon should be deemed eligible to vote. The only remedy to this crazy-quilt of laws is automatic restoration, immediately, across the board.

Compared with the states that allow automatic restoration upon completion of imprisonment, parole or probation, the restrictions of these thirteen states are abnormal, and have a profound, negative impact on former felons seeking to regain their right to vote. The vast majority of jurisdictions, however, are experiencing no backlash from allowing former felons who have paid their debt to society to automati-

cally rejoin the democratic process after their term of imprisonment.

CHART

IMPEDIMENTS TO VOTING RESTORATION FOR FORMER FELONS

| State | Governor Decision Mandator | Mandatory Waiting Period | Permanent Disqualification Certain Felonies | Mandatory Notice to Prosecutor/-Victim | Intrusive Procedures Required |
|--------------|----------------------------|-------------------------------------------|-------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------|
| Alabama | X | X 3 years | | X | X DNA sample |
| Arizona | | X 2 years/2nd felony | | X | |
| Delaware | | X 5 years | X Election Offenses: murder/mansl- /sex off. | X | X Psychiatric exam |
| Florida | X | X 10 years/pardon | | X | X History of mental instability, drugs/alcohol abuse/debts |
| Iowa | X | | | | X Views of warden |
| Kentucky | | | | X | |
| Maryland | X | X 20 yrs- drugs/viol., 10 yrs-other | X Election offenses | | X Marital history/religious pref.; social activities |
| Mississippi | | | | X Publish pardon petition 30 days | X 2/3 vote of state legislature required |
| Nevada | | | | | |
| Tennessee | | | X Voter fraud; murder/rape /treason | X | |
| Virginia | X | X 3 yrs: non-violent 5 yrs: other | | | X Reference letters from 3 reputable people; civic responsibility |
| Washington | | | | X | |
| Wyoming | X | | | X | |
| TOTAL | 6 | 6 | 3 | 9 | 7 |

* Effective January 1, 2003, Maryland's lifetime ban on two-time former felons (with the exception of felons with two violent convictions) will be repealed, and a three-year waiting period after completion of sentence will be implemented before voting rights can be restored). Under recent policy changes in Virginia, effective September 1, 2002, the waiting period for restoration of voting rights for persons convicted of non-violent offenses was decreased from 7 to 3 years; the application was simplified and the process streamlined.

SEPTEMBER 2002

STATES WITH DISCRETIONARY, NON-AUTOMATIC, RESTORATION SYSTEMS

This Guide provides a comprehensive, state-by-state roadmap to the restoration processes and procedures of the 13 states currently subjected to a discretionary, non-automatic restoration process. While repeal of such statutes must be the ultimate goal, there must also be an effort to hold states accountable to the provisions in the statutes that exist, by encouraging eligible persons to seek re-enfranchisement. The following state-by-state guide to the restoration process will assist you with information regarding the pre-requisites, restrictions, processes and procedures necessary to restore your right to vote.

For both federal and state elections, the right to vote is controlled by the law of the state in which one lives, not the state in which you are convicted. The laws vary widely from state to state. It is important to note that state laws are frequently revised. The Department of Justice has warned that “It is your responsibility to determine whether you are lawfully eligible to vote, and criminal penalties can result from voting when ineligible or making false statements on a registration form.”¹³¹ If any of the state election contacts listed in this section is unable to assist you, or if you have a problem to report, contact:

United States Department of Justice
Civil Rights Division
P.O. Box 66128
Washington, D.C. 20035
(202) 307-2767 (voice); (800) 253-3931 (toll free)
(202) 307-3961 (fax); www.usdoj.gov/crt

Rudimentary requirements for each of the 50 states and the District of Columbia can be downloaded from the Department of Justice’s website, at www.usdoj.gov/crt/restorevote/restorevote.htm.

ALABAMA *(discretionary decision for all former felons)*

← Summary

Alabama disenfranchises persons in prison, on parole, on probation, as well as former felons who have completely paid their debt to society. Alabama requires a full pardon from the governor that expressly restores your right to vote. A mandatory DNA sample must accompany the application of some former felons.

← Eligibility

In Alabama, your right to vote can only be restored by a pardon:

- After completion of a State or Federal parole period;
- After completion of a State or Federal probation period;
- After completion of an Alabama jail sentence
- After completion of a full penitentiary sentence or federal sentence
- After three years of successful parole in Alabama, where parole has not ended and you have no other felonies.¹³²

← Contact

Alabama Board of Pardons and Paroles
P.O. Box 302405
Montgomery, AL 36130-2405
(334) 242-8730
www.agencies.state.al.us/pardons

← Procedure (Conviction in Alabama State Court)

To have your civil rights restored in Alabama, apply¹³³ to the Board of Pardons after three years of permanent parole, or after the expiration of your sentence if your sentence was for less than three years.¹³⁴ You may, however, receive a pardon earlier if the Board of Parole votes unanimously to do so after receiving “clear proof” of your innocence as well as the written approval of the judge or district attorney who tried the original case.¹³⁵ Certain persons applying for a pardon or restoration — including felons convicted after May 6, 1994 and felons incarcerated as of that date¹³⁶ — must submit a DNA sample as a mandatory condition of the pardon.¹³⁷ Thirty days written notice must be given before a pardon or restoration can occur.

Such notice is to be provided to the state Attorney General, the judge and the district attorney who tried the case, the chief of police in the city where the crime occurred, and the sheriff of the county where the crime occurred.¹³⁸ Thirty days written notice must also be provided to the victim for certain enumerated crimes.¹³⁹ If relief is granted by the Board, notice must be given to “all those entitled to notice.”¹⁴⁰ Moreover, each member of the Board who favors a pardon or restoration of civil rights must explain his or her reasons in detail.¹⁴¹ Finally, please note that a successful pardon will not restore your civil rights unless the pardon order expressly says so.¹⁴²

← Procedure (Conviction in Federal Court or other State Court)

As a former felon, you lose your voting rights in Alabama even if your felony conviction emanated from a

federal court or from another state court.¹⁴³ The procedure for restoring voting rights when the conviction is in a federal court or another state is similar to the restoration process pursuant to an Alabama conviction, but has its unique twists. The Board of Pardons may hear applications regarding convictions in federal court or other states if the applicant resides in Alabama at the time of the application.¹⁴⁴ The applicant must have first received a pardon in the jurisdiction in which he was convicted; if the pardon does not provide that voting rights are restored, the person can then apply to the Alabama Board for a pardon that restores the right to vote.¹⁴⁵ It is pertinent that the pardon issued by the Alabama Board, however, specifically state that the pardon is pursuant to the conviction in another state.¹⁴⁶

ARIZONA *(discretionary decision for 2nd time felons)*

← Summary

Arizona disenfranchises persons in prison, on parole, on probation, as well as former felons who have more than one felony conviction who have completely paid their debt to society. Restoration for first time felons in Arizona is automatic. Multiple felons, however, face a layered application process that involves discretionary decision-making at various points. If seeking restoration through the courts, you must first comply with the application requirements of the Board of Executive Clemency, which then makes a discretionary decision whether to grant an absolute discharge. If successful, you must then comply with the application requirements of the courts, which then makes a discretionary decision whether to restore your civil rights. If seeking a pardon you face a less cumbersome, but equally awkward process because of the legal and political difficulties in obtaining a pardon.

← Eligibility

If it is your first felony, your right to vote is automatically restored upon completion of incarceration, probation, parole, in addition to payment of any fine. If convicted of two or more felonies:

- a) If you served a prison sentence, you must wait two years after your unconditional release or completion of parole. At this time, you can apply to have your civil rights restored at the court where you were sentenced.
- b) If your conviction resulted in a sentence of probation, you can apply to have your civil rights restored by the judge who discharges you at the end of your probation. Application materials must be obtained from your probation officer.

← Contact

Application materials must be obtained from your probation officer.

State website - www.az.gov

If you encounter difficulty, contact the Elections Department of the Arizona Secretary of State:

Elections Department

(602) 542-8683

toll free (877) 843-8683

← **Procedure (Conviction in Arizona State Court)**

If you were convicted of two or more felonies, you have three options for the restoration of your voting rights in Arizona. First, you can apply for restoration through the courts by the judge (or judge’s successor) who sentenced you if two years have passed after your absolute discharge.¹⁴⁷ A number of procedural hurdles, however, must first be satisfied. The absolute discharge must first be obtained from the Department of Corrections prior to an application to the courts for restoration.¹⁴⁸ The Department must demonstrate to the Board that there is a “reasonable probability” that you will “live and remain at liberty without violating the law,” and that your absolute discharge from parole is “compatible with the welfare of society and is in the best interest of the state.”¹⁴⁹ Notice to the victim must be provided fifteen days before the Board’s hearing on the application, if notice was requested, and inform the victim of his right to be present at the hearing and to submit a written report to the Board expressing his opinion about the proposed discharge.¹⁵⁰ If an absolute discharge is granted by the Board, the Director of the Department of Corrections must issue a copy of the discharge to you.¹⁵¹ Applications are to be filed with the clerk of the sentencing court.¹⁵² Your application should include the details of your offense, and, if you wish, may include documents and affidavits which support your application.¹⁵³ A docketing fee shall not be charged, and a copy of the application shall be sent to the prosecutor and (if a federal felony) to the attorney general,¹⁵⁴ who has the opportunity to file a written response in opposition.¹⁵⁵ There must be a hearing within 30 days after your application has been filed.¹⁵⁶ The judge has discretion whether or not to restore your right to vote,¹⁵⁷ but is required to state her reasons for denial.¹⁵⁸

Second, if you were convicted of two or more felonies and are on probation, you may apply, after the completion of the period of probation, to have your voting rights restored by the judge who discharged you¹⁵⁹ or the judge or judge’s successor who sentenced you.¹⁶⁰ A copy of the application will be sent to the county attorney.¹⁶¹ You must also receive, from your probation officer or the court, a written notice about the opportunities to have your voting rights restored or have the judgment of guilt set aside.¹⁶² Setting aside the judgment of guilt includes the restoration of all civil disabilities imposed as a result of the sentence¹⁶³ and it is within the judge’s discretion whether to grant or deny the application.¹⁶⁴ Certain felons, however, are precluded from this provision. These include felons who have been convicted of crimes involving serious physical injury, involving the use or exhibition of a deadly weapon or dangerous instrument, requiring registration as a sex felon,¹⁶⁵ involving a sexual motivation,¹⁶⁶ involving a minor under the age of 15, and involving certain motor vehicle laws.¹⁶⁷ The application, fee, and notice requirements are identical to those for restoration.

Finally, if you were convicted of more than one felony in Arizona you may also apply for a pardon to have your right to vote restored. If granted, the pardon has the effect of restoring your voting rights.¹⁶⁸

← **Procedure (Conviction in Federal Court or other State Court)**

If you have only been convicted of one felony — whether it be in an Arizona court, a federal court, or the court of another state — your voting rights are automatically restored upon completion of probation or receiving an absolute discharge.¹⁶⁹

The rules for a person completing a federal sentence who has been convicted of two or more felonies are similar to those for persons convicted in Arizona state courts. Upon receipt of an absolute discharge from a federal prison, you may apply, no sooner than two years after the discharge, to the presiding Arizona state judge in the county where you reside to have your voting rights restored.¹⁷⁰ The application must be accompanied by a certificate of discharge from the director of the Federal Bureau of Prisons, if possible.¹⁷¹ If you have been convicted of two or more felonies you may have your voting rights restored upon completion of federal probation by applying to the presiding Arizona state judge in the county where you reside.¹⁷² That application must be accompanied by an affidavit of discharge from the federal judge discharging you.¹⁷³

There are no restoration provisions in Arizona if you have been convicted of two or more felonies and are completing a sentence pursuant to a conviction in another state court.¹⁷⁴

DELAWARE *(discretionary decision for some former felons; automatic restoration after 5 year wait for other felons)*

← **Summary**

Delaware disenfranchises persons in prison, on parole, on probation, as well as former felons who have completely paid their debt to society. Restoration in Delaware is dependent on the type of offense. If you were convicted of murder, manslaughter, sexual offenses, or any offense against public administration involving bribery, improper influence or abuse of office, you are disenfranchised for life. Otherwise, your right to vote can be restored by a pardon or by waiting five years after the underlying sentence has expired, whichever occurs first.

← **Eligibility**

See summary above

← **Contact**

To apply for a pardon, obtain an application from the Board of Pardons.

If you encounter difficulty, you may contact the State Commissioner of Elections, Office of the Delaware Secretary of State:

State Commissioner of Elections Office
32 West Loockerman Square
Suite M-101
Dover, DE 19904
(302) 739-4277; www.state.de.us/election

← **Procedure (Conviction in Delaware State Court)**

If you were convicted of a felony that does not disqualify you from the restoration process, you may either seek a pardon, or wait five years, whichever may occur first.¹⁷⁵ In order to consider a pardon application, the Governor must first receive the recommendation of a majority of the Board of Pardons.¹⁷⁶ The recommendation, however, is not binding;¹⁷⁷ but the governor is required to explain his reasons for granting a pardon, and enter it in the register of his official acts presented to the General Assembly.¹⁷⁸

The Board of Pardons publishes its governing Rules,¹⁷⁹ and provides comprehensive instructions¹⁸⁰ and a cover sheet¹⁸¹ for applicants. The application must include a certified copy of the court docket, the Board of Pardons Cover Sheet, a statement of reasons why the pardon should be granted, a short history of the case, and copies of the psychiatric report required for convictions of certain offenses.¹⁸²

If you were convicted of certain enumerated offenses, you must also be evaluated by a psychiatrist at least twelve months prior to the consideration of the application.¹⁸³ These offenses include any offense resulting in death, sexual offenses, kidnapping, arson, burglary, robbery, offenses relating to children and incompetents, cruelty to animals, abusing a corpse, unlawful use of an incendiary device, bomb or other explosive device, child abuse, distribution of a controlled substance to a person under age eighteen, or a statutorily proscribed attempt to commit any of these offenses.¹⁸⁴

You must notify the following criminal justice system participants at least 30 days prior to the hearing date: the Attorney General, the chief of police in the jurisdiction where the crime occurred, and the Superintendent of the Delaware State Police. The Attorney General is required to notify the victim or surviving family members, and must present the victims' opinion at the hearing.¹⁸⁵ The hearings are public, and you are encouraged to represent yourself.¹⁸⁶

If you choose not to apply for a pardon, you must wait five years after expiration of your sentence for your voting rights to be restored.¹⁸⁷ An elaborate procedure outlined in the Delaware statutes follows receipt of such an application. The county department of elections searches the Criminal Justice Information System (CJIS) to determine if you have been convicted of a disqualifying felony¹⁸⁸ or if your conviction has not been expired for the requisite five year period of time.¹⁸⁹ Should the CJIS search prove inconclusive, the County Department of Elections forwards the application to the state Commissioner of Elections for determination as to whether or not you shall be permitted to register to vote, using statutorily prescribed guidelines and standards.¹⁹⁰ You will be permitted to register if, after review of all your records, the Commissioner determines that the subject felony was not a disqualifying one, you have fully discharged all imposed sentences, and otherwise meet all constitutional requirements.¹⁹¹ A negative decision by the Commissioner is appealable to the Superior Court.

← **Procedure (Conviction in Federal Court or Other State Court)**

The same procedures for the restoration of your voting rights apply if you were convicted in a federal court or in the court of another state.¹⁹²

FLORIDA *(discretionary decision for all former felons)*

← Summary

Florida disenfranchises persons in prison, on parole, on probation, as well as former felons who have completely paid their debt to society. Restoration of civil rights lies at the discretion of a Board of Executive Clemency, comprised of the Governor and three other members of his cabinet. As a former felon you have two options for re-enfranchisement in Florida: you may either apply for a full or conditional pardon, or seek a restoration of your civil rights.

← Eligibility

To be eligible, you must have completed all sentences and conditions of supervision, including parole, probation, community control, and conditional release. Applications for pardons and restoration of civil rights are available from the Board of Executive Clemency.

← Contact

Coordinator, Office of Executive Clemency
2601 Blairstone Road
Building C, Room 229
Tallahassee, Florida 32399-2405
(850) 488-2952
www.state.fl.us/fpc/exclem.html

If you have questions about your application, contact the Department of Corrections, Office of Community Corrections, at (850) 487-3865, or e-mail at co-supervision@mail.dc.state.fl.us

← Procedure (Conviction in Florida State Court)

The Governor is vested with the power to grant pardons and restore civil rights.¹⁹³ A period of ten years after completion of sentence must elapse before you may apply for a pardon.¹⁹⁴ When your sentence has been completed, Florida law requires the Department of Corrections to assist you with an application for clemency.¹⁹⁵ The first thing that the DOC does is determine whether or not you are eligible for an expedited application process.¹⁹⁶ You are disqualified from the expedited process if your criminal record contains any one of a long list of specified offenses, ranging from capital crimes to “lewd, lascivious, indecent; or unnatural acts.”¹⁹⁷ If you are not disqualified, the DOC sends your name to the Parole Commission,¹⁹⁸ which conducts a brief check to confirm that you have not committed any of the disqualifying offenses.¹⁹⁹ If no problem presents itself, the Commission forwards your name to the Board of Executive Clemency.²⁰⁰ The Board has twenty days to request that your application undergo a more searching investigation. If it fails to do so, your civil rights are automatically restored.²⁰¹ It is important, however, to note that even though the restoration of

your rights makes you eligible to vote, you still must follow the procedures required to actually register to vote.

If you are disqualified from the expedited process, or have been turned down for automatic restoration of civil rights by the Board of Executive Clemency, you must go through a longer and more complicated application process, including an investigation and a hearing. You must first complete in quadruplicate a special application form, obtainable from the Office of Executive Clemency.²⁰² You may also submit character references and letters of support, but the Office of Executive Clemency provides no instructions as to the weight such supporting documents carry.²⁰³

Once the application is submitted, the Coordinator of the OEC reviews it for completeness and forwards it to the Parole Commission for an investigation.²⁰⁴ This investigation may include an additional, four-page application; interviews of you, your neighbors, and former or present employers; and an exploration of your medical and psychiatric history and school, employment, and police records.²⁰⁵ Even traffic offenses and credit history are investigated.²⁰⁶ If you fail to comply with the investigation “without adequate explanation,” your clemency application may be summarily rejected.²⁰⁷

When the Parole Commission investigation is complete, the Commission reports its results to the Board of Executive Clemency.²⁰⁸ The Board meets four times a year on clemency applications.²⁰⁹

If desired, you may attend the hearing and make an oral presentation to the Board.²¹⁰ Victims are also provided the opportunity to address the Board.²¹¹ The Board makes the final decision whether or not to restore your civil rights. If they object to restoration, you must wait at least two years before reapplying for clemency.²¹²

Theoretically, the Board of Executive Clemency may also grant clemency to felons who have not yet completed their sentences or conditions of supervision.²¹³ These persons must apply for a waiver of normal eligibility requirements at the same time as filing their clemency applications.²¹⁴ If the Board decides to grant the waiver, the clemency application will be subject to the same investigation and hearing process described above.²¹⁵

← **Procedure (Conviction in Federal Court or Other State Court)**

If you have been convicted of a felony in any court, you may not vote in Florida unless your civil rights have been restored.²¹⁶ The Rules of Executive Clemency indicate that those convicted in courts other than the state courts of Florida are eligible to apply for restoration of civil rights (both with or without a hearing) if the applicant resides in Florida at the time the application is filed.²¹⁷

IOWA *(discretionary decision for all former felons)*

← Summary

Iowa disenfranchises persons in prison, on probation, on parole, as well as former felons who have completely paid their debt to society. If you are a former felon, you must obtain a pardon or a restoration of your civil rights from the Governor in order to regain your right to vote.²¹⁸ Application may be made at any time following discharge of sentence.²¹⁹

Contact:

Governor
State Capitol
Des Moines, IA 50319
(515) 281-5211
www.state.ia.us/governor

If you have questions, contact:

Iowa Secretary of State
Statehouse
Des Moines, Iowa 50319
(515) 281-8993
www.sos.state.ia.us

← Procedure (Conviction in Iowa State Court)

As a former felon, you may apply to the Iowa Board of Parole for a recommendation to the governor that you be pardoned, or that your civil rights be restored.²²⁰ You may also apply directly to the governor, who may request that the Board handle the request.²²¹ All former felons seeking to restore their voting rights must complete an Application for Restoration of Citizenship.²²² Your Client Progress Report from your parole or probation officer should be attached to expedite the application process.²²³ The application normally takes four to six months to be processed.²²⁴ The Iowa Board of Parole also has authority to process applications and make a recommendation to the governor.²²⁵ Evidence from the trial court and prosecuting attorney may be considered, as well as recommendations from the warden describing your behavior while incarcerated.²²⁶ The governor has ninety days with which to respond.²²⁷ If the response is favorable, the state registrar of voters will receive your name as part of a monthly list of former felons whose civil rights have been restored.²²⁸ If the governor fails to grant an application favorably submitted by the Board, it may be refiled by the Board or withdrawn.²²⁹

← Procedure (Conviction in Federal Court or Other State Court)

The same procedure applies whether you were convicted of a state crime or a federal crime. The Governor of Iowa can restore your voting rights in Iowa, but cannot grant you a pardon on behalf of the federal government or that of another state.²³⁰

KENTUCKY (*discretionary system for all former felons*)

← **Summary**

Kentucky disenfranchises persons in prison, on probation, on parole, as well as former felons who have completely paid their debt to society. To regain the right to vote, you must obtain a pardon from the Governor. The state has recently streamlined the application process for restoration of the right to vote for former felons.

← **Eligibility**

You are eligible for restoration of your voting rights if you have been convicted of one or more felonies and:

- 1) have reached the maximum expiration of your sentence or have received final discharge from the Parole Board;
- 2) do not have any pending warrants, charges, or indictments; and
- 3) have paid full restitution as ordered by the court or the Parole Board.²³¹

To Apply for a Pardon Contact:

Governor of Kentucky
700 Capitol Avenue
Frankfort, KY 40601
(502) 564-2611
www.gov.state.ky.us

For more information contact:

Kentucky State Board of Elections
140 Walnut Street
Frankfort, KY 40601
(502) 573-7100
www.sos.state.ky.us/electdiv.htm

Restoration of Civil Rights, Department of Corrections - (502) 564-4221

← **Procedure (Conviction in Kentucky State Court)**

If you are eligible, you may apply upon release from incarceration, having reached the maximum expiration date of your sentence or received a final discharge from the Parole Board.²³² A corrections officer is required to inform you of your restoration rights, provide you with the Application for Restoration of Civil Rights, and assist you in completing the application.²³³ The Administrative Office of the Courts is required to forward notice of a felony conviction to the State Board of Elections within ten days after the conviction becomes final.²³⁴ The person is to be removed from the voter registration records within five days of the Board's receipt of notice, and the county clerk updates the county voter registration file to reflect the removal of the former felon's name.²³⁵ You may file a protest with the elections clerk in your county, protesting your removal from the voter registration records.²³⁶ The county board must hear the protest at its regular monthly meeting. If the board decides in your favor, your voting rights are restored.²³⁷ You may also seek an executive pardon from the governor for restoration.²³⁸

Pursuant to a recently enacted Kentucky statute, you may now apply directly to the Department of Corrections for restoration of the right to vote. This greatly simplifies the process as the Department facilitates the applications and forwards them to the governor's office.²³⁹ The Department of Corrections must inform you about this process, provide you with a standard form you may file with the

Department of Corrections, and initiate the restoration process.²⁴⁰ The Department of Corrections facilitates the process of the application including, compilation of a monthly list of eligible felons who have applied; conducting an investigation to determine if restitution should be paid; provide notice of the application to the Commonwealth attorney, and forward monthly information of eligible felony felons to the governor's office for consideration of a partial pardon.

← Procedure (Conviction in Federal Court or Other State Court)

A felony conviction makes you ineligible to vote in Kentucky, no matter where you were convicted, and you must have your rights restored before you will be permitted to vote.²⁴¹ Although the Governor of Kentucky cannot grant a full pardon on behalf of the federal government or that of another state, he can grant a partial pardon in Kentucky to restore your voting rights in Kentucky.²⁴² The governor may also restore the civil rights of Kentucky residents who were convicted in another state.²⁴³

MARYLAND *(discretionary decision for 2nd time felons; automatic restoration for 1st and 2nd non-violent felons; law will change January 1, 2003 to discretionary decision for 2nd time violent felons; automatic restoration for 1st and 2nd non-violent felons after three year waiting period)*

← Summary

Maryland disenfranchises felons in prison, on parole, on probation, and those former felons who have two or more convictions, even after they have completely paid their debt to society. If you are a first time felon for theft or infamous crime, other than buying or selling votes, your right to vote is automatically restored after you have completed your sentence, including any probation or parole. After two or more convictions, and upon completion of a lengthy waiting period, you must obtain a pardon from the Governor to be eligible to vote, unless you were convicted of an election-related crime, of which you are permanently disenfranchised.

← Eligibility

To be eligible to apply for a pardon, you:

- 1) must have been crime-free from the date of sentence, release from incarceration, or release from parole or probation, whichever last occurred, for 10 years; the Parole Commission may consider cases of this nature, at its discretion, after seven years;
- 2) If you have been convicted of a defined crime of violence, or if you have been convicted of a controlled dangerous substance violation, you must have been crime-free from date of sentence, release from incarceration, or release from parole or probation, whichever last occurred, for twenty (20) years; the Parole Commission may consider cases of this nature, at its discretion, after 15 years.
- 3) If you are convicted of buying or selling votes, you are ineligible to apply for a pardon.

← Contact

If you were convicted in Maryland state court, you can apply to the Governor to seek a pardon. After receipt of pardon if you encounter difficulty registering to vote, contact:

Maryland

State House
P.O. Box 139
Annapolis, MD 21401
(410)974-3901; (410) 585-3200

Maryland Board of Elections

151 West Street
Elections Division
Annapolis, MD 21401
(410) 269-2840 or toll free (800) 222-8683

If you are uncertain as to whether you are able to apply for a pardon, you may call the Pardon Application Coordinator for more information, at (410) 585-3200 or toll free at 1-877-241-5428.

← Process and Procedure (Conviction in Maryland State Court)

Upon completion of your sentence, including probation and parole, your voting rights are restored automatically if you were not convicted of an election-related offense.²⁴⁴ If you were convicted of two or more infamous crimes, your voting rights can only be restored by a full or partial pardon from the Governor.²⁴⁵ A request for a pardon may be made by petition or letter to the Maryland Parole Commission, which will send a pardon application with instructions upon request.²⁴⁶ The Division of Parole and Probation will conduct a comprehensive investigation, and the Parole Commission makes a recommendation to the governor.²⁴⁷ The Commission considers the following factors relevant in determining whether or not to recommend a pardon to the governor:

- The nature and circumstances of the crime*
- The effect of a pardon on the victim and community*
- The sentence given*
- The other anti-social behavior of the petitioner*
- The subsequent rehabilitation of the petitioner*
- The age and health of the petitioner*
- The reason the pardon is needed²⁴⁸*

A “reasonable length of satisfactory adjustment in the community beyond the maximum expiration date of sentence” is also required in order to receive a favorable recommendation from the Commission.²⁴⁹ The Commission has deemed this period of time for most felonies to be ten years although it may, at its discretion, shorten the period to seven years.²⁵⁰ You must wait twenty (20) years if you were convicted of a violent felony²⁵¹ or a controlled dangerous substance violation, although the Commission in its discretion may consider applications after fifteen (15) years.²⁵² The governor may accept the recommendation of the Maryland Parole Commission for a pardon “at his discretion.”²⁵³ Upon denial, you may reapply after a reasonable period of time has elapsed.²⁵⁴

← Process and Procedure (Conviction in Federal Court or Other State Court)

If you are a resident of Maryland, the same rules apply whether you are convicted of a federal or state crime, or if the conviction occurred in another state.²⁵⁵

MISSISSIPPI (*discretionary decision for most former felons; automatic restoration for certain veterans*)

← Summary

Mississippi disenfranchises persons in prison, on probation, on parole, as well as former felons who have completely paid their debt to society. Your right to vote can be restored by a pardon or executive order issued by the governor, or by two-thirds vote of the Mississippi state legislature. Your pardon application must be published for 30 days in a local newspaper.

← Eligibility

Upon release from probation, your right to vote may be restored by pardon or an executive order issued by the governor, or pursuant to a two-thirds vote of the state legislature.

← Contact

To apply for a pardon or executive order:

Office of the Governor
P.O. Box 139
Jackson, MS 39205
(601) 359-3100

If you encounter difficulty, contact:

Mississippi Secretary of State
Elections Division
P.O. Box 136
Jackson, MS 39205-0136
(601) 359-1350
www.sos.state.ms.us/elections/elections.html

← Process and Procedure (Conviction in Mississippi State Court)

There are three ways in which your right to vote in Mississippi can be restored: through a pardon or executive order issued by the Governor upon discharge from probation, or pursuant to a two-thirds vote of the state's legislature.

If you have been convicted of murder, rape, bribery, theft, arson, obtaining money or goods under false pretense, perjury, forgery, embezzlement, bigamy, armed robbery, extortion, felony bad check, felony shoplifting, larceny, receiving stolen property, robbery, timber larceny and the unlawful taking of a motor vehicle,²⁵⁶ you are disqualified from voting in Mississippi state elections unless your voting rights have been restored by the governor or by the state legislature. Before the governor can issue you a pardon, you must have published your petition for pardon for thirty days in a newspaper in the county where the crime was committed.²⁵⁷ The governor can request that the Mississippi Department of Corrections assist in the investigation of a petition for pardon.²⁵⁸

If you have been discharged from probation, you may seek an executive order restoring your right to vote.²⁵⁹ With respect to an executive order, you should submit a written request to your probation field supervisor, who then forwards a written report of the probation record to the Division of Community Services.²⁶⁰ The Division then presents this report to the governor, who may, in his discretion, issue an executive order restoring your civil rights.²⁶¹

Finally, you can petition the state legislature to restore your right of suffrage, which may do so upon a two-thirds vote of both houses.²⁶²

Finally, if you are a veteran of World War I or II and received an honorable discharge, your right to vote in Mississippi elections is automatically restored²⁶³ as if pursuant to an act of the legislature.²⁶⁴ If you fit within this category you are to record your discharge or release with the chancery clerk in the county in which you wish to vote.

← **Process and Procedure (Conviction in Federal Court or Other State Court)**

Your right to vote in Mississippi is not affected by a federal criminal conviction, or by a criminal conviction in another state, as long as you are otherwise qualified to vote in Mississippi.

NEVADA *(discretionary decision for all former felons)*

← **Summary**

Nevada disenfranchises persons in prison, on probation, on parole, as well as former felons who have completely paid their debt to society. If you were convicted in Nevada, you must have your civil rights restored before you will be eligible to vote. The restoration process in Nevada has recently been simplified. Although not automatic, much of the discretion has been eliminated.

← **Eligibility**

See summary above.

← **Contact**

To apply for a pardon:

Nevada Parole and Probation
1445 Hot Springs Road
Carson City, Nevada 89710
(775) 687-5040
www.ps.state.nv.us/pandp

If you experience problems, contact:

Nevada Secretary of State
101 North Carson Street, Suite 3
Carson City, Nevada 89701
(775) 684-5705
www.sos.state.nv.us/nvelection

← **Process and Procedure (Conviction in Nevada State Court)**

The process for restoration of voting rights in Nevada has been significantly streamlined.²⁶⁵ If convicted of a felony in a Nevada state court and released from incarceration, you may write to the Nevada Division of Probation and Parole and request that your civil rights be restored.²⁶⁶ The Division then sends you a letter requesting specific information necessary to an investigation to determine whether you have, in fact, served your sentence and been released from prison.²⁶⁷ The Division forwards the completed application to the district court where you were convicted. As soon as “reasonably practicable,” the court must restore your civil rights, releasing you from all penalties and disabilities relative to your

status as a felon.²⁶⁸ You must be provided notice of this process by the director of the Department of Corrections, and the Department is prohibited from charging you a fee for this service.²⁶⁹

The restoration process for parolees and probationers is similarly straightforward. The Nevada Board of Parole Commissioners may automatically restore your civil rights upon your honorable discharge as a parolee. If the Board fails to do so automatically at the completion of your parole, you may apply by letter to the Division of Parole and Probation for restoration.²⁷⁰ Again, basic information will be elicited regarding your eligibility. If the investigation is satisfactory, the application is forwarded to the Board of Parole Commissioners who must restore your civil rights “as soon as reasonably practical.”²⁷¹

With respect to probation, you may apply to the Division of Parole and Probation to have your civil rights restored, after a waiting period of six (6) months following your honorable discharge from probation.²⁷² After the requisite investigation, the Division is to petition the trial court for a restoration of your civil rights. If the Division fails to submit the petition, you may do so yourself, directly to the court.²⁷³

← **Process and Procedure (Conviction in Federal Court or Other State Court)**

You are precluded from voting in Nevada if you were convicted of a felony under federal law or in another state, unless you have had your civil rights restored in the jurisdiction where you were convicted, or have received a presidential pardon.

TENNESSEE (*discretionary decision for former felons convicted before 1986*)

← **Summary**

Tennessee disenfranchises persons in prison, on probation, on parole, as well as former felons who have completely paid their debt to society. Generally speaking, if you have been convicted of an infamous crime, you may not vote unless you have been pardoned by the governor or your full voting rights have been restored by law.²⁷⁴ The restoration process in Tennessee depends upon the type of felony and the date of conviction. Tennessee has an extremely confusing and complicated process for re-enfranchisement. Whether you are disenfranchised, and what your options are for restoration, depend on a confusing matrix that distinguishes convictions by date and type of offense. If eligible for restoration, you can typically petition the appropriate circuit court after having been pardoned or after the expiration of the maximum sentence imposed. Significantly, there is a presumption that petitions for restoration by eligible former felons be granted for recent convictions.

← **Eligibility**

If you were convicted of murder, aggravated rape, treason, or voter fraud after July 1, 1986, or of rape after June 30, 1996, you are ineligible to have your voting rights restored. For other felony convictions after June 30, 1996, you may seek restoration of your voting rights after the maximum sentence imposed for your conviction has expired, or after you have been pardoned, by petitioning the circuit court of the county

where you live or where you were convicted.

If you were convicted after July 1, 1986 but before June 30, 1996 of a felony other than murder, aggravated rape, treason, or voter fraud, you may request that either the board of probation and parole or the authority that supervised or incarcerated you during your sentence issue a Certificate of Restoration of Voting Rights. You are eligible to request this certificate after either being pardoned or after the maximum sentence which was imposed for your conviction has expired.

Although the system of eligibility requirements and procedures is complicated, Tennessee provides simplified explanation on its Web site.²⁷⁵

← **Contact**

To apply for a pardon, you may request an application from the Board of Probation and Parole:

Board of Probation and Parole
William Snodgrass Tower
404 James Robinson Parkway
Nashville, TN 37243
(615) 741-2001 (Governor's office); (615) 741-7956 (The Election Commission)

If you encounter difficulty, contact:

31 Eighth Ave. North, 8th Floor
Nashville, TN 37243-0399

← **Process and Procedure (Conviction in Tennessee State Court)**

To apply for a pardon, you may request an application from the Board of Probation and Parole. Send the completed application along with character references and any supportive documentation back to the Board. After review of the material, the Board may schedule a hearing. The Governor will decide whether or not to grant or deny the petition.²⁷⁶

For convictions after June 30, 1996, of any felony other than murder, rape, treason, or voter fraud, a petition can be submitted which cites the basis for your eligibility for restoration and why it should be granted. Both the district attorney general in both your county of residence as well as the county where the conviction occurred will be notified and provided the opportunity to object to your petition.²⁷⁷ Significantly, there is a rebuttable presumption that the petition for restoration of voting rights be granted.²⁷⁸

A person convicted between July 1, 1986 and June 30, 1996, of first degree murder, aggravated rape, treason, or voter fraud can never restore his right to vote in Tennessee.²⁷⁹ If you were convicted of another type of felony during this time period, your voting rights may be restored if 1) you receive a pardon that places no specific conditions limiting your right to suffrage; 2) you have served the maximum sentence imposed; or 3) you were granted final release from incarceration or supervision by the board of probation and parole, or the county correctional authority.²⁸⁰ If you fall within one of these

categories, you may request a certificate of restoration from the pardoning attorney or the supervising incarcerating authority, depending on whether or not you were pardoned or just completed your sentence.²⁸¹ Upon receipt, you can submit the certificate to your county administrator of elections, who must issue you a voter registration card upon verification that the order was issued.²⁸²

Convictions between May 18, 1981 and June 30, 1986, are governed by a confusing hodgepodge of changing laws. Pursuant to the Tennessee Code, if you were convicted of a felony before July 1, 1986, you can petition to have the right to vote. There are no permanently disqualifying offenses.²⁸³ The rules governing felon disenfranchisement and voting restoration of former felons convicted between May 18, 1981 and June 30, 1986 are as follows:

If you have been pardoned, or your maximum sentence has expired, you can have your voting rights restored by a circuit court. You should send your petition to the circuit court in the county of your residence or in the county in which you were convicted. You must bear all the costs of the petition, and must demonstrate that you have “sustained the character of a person of honesty, respectability, and veracity, and that is generally esteemed as such” by your neighbors. The court must give notice to the district attorneys in both your county of residence and the county where you were convicted in order to give them each the opportunity to ‘resist.’ If the petition is granted, you may submit the certificate of restoration to the registrar in the county of your residence. The certificate of restoration – once verified by the state coordinator of elections — shall serve as sufficient proof to the county elections registrar that you are eligible to vote.

Convictions between January 15, 1973 and May 17, 1981

If you were convicted of a crime between January 15, 1973 and May 17, 1981, you have not lost your right to vote because of your conviction. Consequently, you need not apply for restoration. You may just register to vote.

Convictions prior to January 15, 1973

Before January 15, 1973, a list of certain offenses were enumerated as possibly ‘infamous.’ They were:

- Abusing a female child
- Arson and felonious burning;
- Bigamy;
- Burglary; felonious breaking and entering a dwelling house; felonious breaking into a business house, outhouse other than a dwelling house; larceny; horse stealing; robbery; receiving stolen property; stealing bills of exchange or other valuable papers;
- Destroying a will
- Incest; rape; sodomy; buggery; or
- Perjury, subornation of perjury.

A person convicted of any of these crimes, after being convicted, could have been declared ‘infamous’ by the court; the finding was separate of that of guilt. If a person was

rendered infamous, and the conviction was not reversed on appeal, then the former felon may have his civil rights restored by a pardon from the governor, or by petitioning the convicting court or the court in the former felon's county of residence for restoration. If the person was not rendered infamous after trial, he never lost his right to vote.

For a simplified explanation of the eligibility requirements and procedures for convictions between July 1, 1986 and June 30, 1996, *see* State of Tennessee, Conviction between July 1, 1986 and June 30, 1996, at <http://www.state.tn.us/sos/election/webcon2.htm>. For a simplified explanation of the eligibility requirements and procedures for convictions between May 18, 1981 and June 30, 1986, *see* State of Tennessee, Conviction between May 18, 1981 and June 30, 1986, at <http://www.state.tn.us/sos/election/webcon3.htm>. For a simplified explanation of the eligibility requirements and procedures for convictions between January 15, 1973 and May 18, 1981, *see* State of Tennessee, conviction between January 15, 1975 and May 17, 1981, at <http://www.state.tn.us/sos/election/webcon4.htm>.

← **Process and Procedure (Conviction in Federal Court or Other State Court)**

Tennessee applies the same rules whether you were convicted of a federal or state crime. The same rules apply for Tennessee voters even if the conviction occurred in another state.²⁸⁴

VIRGINIA (*discretionary decision for all former felons after 3 year wait for non-violent offenses; 5 year wait for other crimes, including drug distribution offenses*)

← **Summary**

Virginia disenfranchises persons in prison, on parole, on probation, as well as former felons who have completely paid their debt to society. If convicted of a felony in Virginia, you must obtain a "removal of political disabilities" from the Governor in order to regain your right to vote. Although Virginia law allows certain former felons the opportunity to seek relief in the courts, the governor is vested with the power to overrule such court order.

← **Eligibility**

You are eligible to apply for a removal of political disabilities if you completed your sentence (including probation, parole and suspended sentence), more than three (3) years ago for non-violent convictions, and more than five (5) years ago for other crimes, including drug distribution offenses, and if you have satisfied all court costs and restitution.

← **Contact**

To apply:

Governor of Virginia
State Capitol, 3rd Floor
Richmond, VA 23219

If you encounter difficulty, contact:

Virginia State Board of Elections
200 North 9th Street, Suite 101
Richmond, VA 23219-3485

(804) 786-2211; (804) 786-2441
www.thedigitaldominion.com
www.governor.state.va.us

(804) 786-6551; (800) 552-9745 (toll free)
www.sbe.state.va.us/votregserv/reg2vote.htm

← **Process and Procedure (Conviction in Virginia State Court)**

If you are an eligible former felon in Virginia you can opt to either apply to the circuit court for re-enfranchisement, (whose order may be overruled by the governor), or apply directly to the governor. If you were convicted of a violent felony, certain drug offenses, or election fraud, you are precluded from applying to the court for restoration.²⁸⁵ Your petition may be approved if the court is satisfied that you have completed your sentence (including probation and parole), at least five (5) years ago, you have been crime-free since then and that you have “demonstrated civic responsibility through community or comparable service.”²⁸⁶ If your petition is approved by the court, the order will be sent to the Secretary of the Commonwealth for the governor’s approval. The governor’s decision, granting or denying the petition, is final and you will have no right of appeal.²⁸⁷

Any former felon, regardless of the offense, may apply directly to the governor for restoration, if you have completed all prison or jail terms, and are not under any continuing court supervision, have no pending charges anywhere, have satisfied all financial obligations for any prior convictions, and seven (7) years have elapsed if you were convicted of a drug offense (before new policy went into effect on September 1, 2002),²⁸⁸ or five (5) years for any other crime through a simplified application process.²⁸⁹ The application must include the following:

- completed application form
- personal letter from you explaining circumstances of the conviction, why your life has changed since then, whether you are involved in any community activities, and why you feel your rights should be restored
- letter from your most recent probation or parole officer outlining your supervision
- copy of your pre-or post-sentencing report
- certified copies of every conviction and sentencing order
- certified copies of proof of payment of all fines and restitutions ordered
- three letters of reference from three “reputable people” who live in your present community and know you well enough to certify to your good character.²⁹⁰

The Secretary must submit completed applications to the governor for consideration within ninety (90) days.²⁹¹

Under the governor’s new policy, persons convicted of non-violent offenses may apply for a restoration of rights three years after completing their sentence, including any suspended sentence, probation, parole, or supervised release. The application has been reduced to one page and all applicants will receive a decision from the governor within six months of submitting a completed application. The Commonwealth will continue to perform a criminal background check on all applicants. For persons convicted of violent offenses, drug distribution offenses and voting fraud, the 5-year waiting period and the current application process will remain in place.²⁹²

← **Process and Procedure (Conviction in Federal Court or Other State Court)**

A felony conviction makes you ineligible to vote in Virginia, no matter where you were convicted, and you must have your rights restored before you will be permitted to vote. The Governor of Virginia cannot grant you a pardon on behalf of the federal government or that of another state, but he can remove your political disabilities in Virginia, thereby restoring your Virginia voting rights.²⁹³

WASHINGTON *(discretionary decision for former felons convicted prior to 1984)*

← **Summary**

Washington disenfranchised persons in prison, on parole, on probation, as well as former felons convicted prior to 1984 who have completely paid their debt to society. If you were convicted of a felony committed on or after July 1, 1984, your voting rights are automatically restored in Washington through the issuance of a certificate of discharge. If you were convicted prior to that date, you must have your right to vote restored by obtaining a final discharge certificate, or applying to the governor through the Washington Clemency and Pardons Board for a pardon or for restoration of your voting rights.

← **Eligibility**

See summary above.

← **Contact**

For final discharge information, contact the Indeterminate Sentence Review Board, at:

(360) 493-9266
P.O. Box 40220

If difficulty, contact:

Office of the Secretary of State/Elections
Division, Legislative Bldg.
Olympia, WA 98504-0220
(360) 902-4151 (Ofc. Secretary of State)
(360) 902-4180 (Elections Division)

For pardon information or applications, contact the Clemency and Pardons Board (Ofc. Secretary of State) through the governor's office:

Office of the Governor
P.O. Box 40002
Olympia, WA 98504-0002
(360) 902-4111

www.srb.wa.gov (Services Link)

← **Process and Procedure (Conviction in Washington State Court)**

The process for restoring your voting rights in Washington is dependant upon whether you were convicted of a crime committed before or after July 1, 1984. If you were convicted of a crime committed on or after July 1, 1984, your voting rights are automatically restored upon completion of the requirements of your sentence.²⁹⁴ You must be given a certificate of discharge from the court that sentenced you upon completion of your sentence. The certificate of discharge has the effect of restoring your right to vote, and must state so.²⁹⁵ You may also apply to the Washington Clemency and Pardons Board for a pardon or for restoration of your voting rights.²⁹⁶

If you were convicted of a crime committed before July 1, 1984, the voting restoration process depends on the nature of your sentence and your stage of release. If you have been released on parole, have performed the obligations of your release to the satisfaction of the Indeterminate Sentence Review Board that your release is not incompatible with your welfare and the best interests of society, you may obtain a final of discharge from that board.²⁹⁷ A certificate of discharge has the effect of restoring all of your civil rights.²⁹⁸ The board has up to three years from the date of parole to enter a final order of discharge, unless your parole status has been suspended or revoked.²⁹⁹ If you are serving a suspended sentence for a felony conviction, you may petition the sentencing court for restoration upon termination of the suspended sentence.

If you are on probation and are discharged prior to the end of the probationary period, you may petition the court to have your guilty plea withdrawn or guilty plea set aside at any time prior to the expiration of the maximum period of punishment.³⁰⁰ If the court grants either of these petitions, it may then dismiss the charging papers, which has the effect of restoring your civil rights.³⁰¹ If you are on probation, you must be notified of the right to utilize this restoration process.³⁰²

Finally, if you were convicted of any type of felony before July 1, 1984, you may have your civil rights restored by applying to the Clemency and Pardons Board for a pardon or for restoration of your civil rights. The governor, after receiving the input of the Indeterminate Sentence Review Board, can restore your civil rights if you have been pardoned or if your maximum term of imprisonment has expired or is about to expire. The Secretary of State files the governor's order declaring that your civil rights have been restored with the clerk of the sentencing court, and both must provide you with a certified copy upon request, as long as you pay the fee.³⁰³ You can use this certified copy as proof in any court and to all election officials that your right to vote has been restored.³⁰⁴

The clemency process can take up to six months, depending on the investigation and review process.³⁰⁵

← **Process and Procedures (Conviction in Federal Court or Other State Court)**

If you were convicted of a federal felony or a felony in another state, you lose the right to vote in Washington until you have had your civil rights restored. You may have your voting rights restored by applying to the Clemency and Pardons Board as would a person convicted in Washington state court.³⁰⁶

WYOMING (*discretionary decision for all former felons*)

← Summary

Wyoming disenfranchises persons in prison, on parole, on probation, as well as former felons who have completely paid their debt to society. Only the governor is empowered to restore the voting rights of former felons. If you have been disenfranchised in Wyoming as the result of a felony conviction, you may be able to regain your right to vote if 1) your conviction is reversed or annulled, 2) you receive a pardon, or 3) your rights are restored pursuant to statute.

← Eligibility

See Above

← Contact

If difficulty, contact:

Governor of Wyoming
Wyoming State Capitol
Cheyenne, WY 82002
(307) 777-7434

Elections Officer
State Capitol Building
Cheyenne, WY 8200200020
(307) 777-5333

www.state.wy.us./governor/governor_home.html

← Process and Procedure (Conviction in Wyoming State Court)

If you wish to regain your right to vote, write the governor for the restoration of your civil rights when your term of sentence expires or you have satisfactorily satisfied your probational period.³⁰⁷ You may also apply to the governor for a pardon to regain the right to vote. Your application must include the specifics of your conviction, any subsequent criminal history, and any pertinent information requested by the governor such as parole and work release records.³⁰⁸ After receiving your application, the governor must provide at least three weeks notice prior to consideration, to the district attorney in the county where you were convicted. The district attorney must, within ten days of receiving this notice, provide the governor with a statement detailing your conviction and any aggravating or extenuating factors which appeared in your trial and sentencing.³⁰⁹

Once an application is submitted it can take up to six (6) months to be processed.³¹⁰

← Process and Procedure (Conviction in Federal Court or Other State Court)

If you were convicted of a felony in federal court or in the courts of another state, you may apply to the governor for the restoration of your voting rights, the same as if you were convicted in Wyoming state court.³¹¹

GUIDE TO NATIONAL, STATE, AND LOCAL RE-ENFRANCHISEMENT WORK



PART III

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SEPTEMBER 2002

A.

POLICY RECOMMENDATIONS AND PROPOSED STRATEGIES

During the last 35 years, this country has experienced a “war on poverty,” a “war on drugs,” and now, a “war on terrorism.” There is a great need today, however, for an unrelenting “war on injustice.” One of the battle fronts of that war must be to protect, preserve and promote one of the most fundamental rights of a democratic society — the universal right to vote. Re-enfranchisement proponents have proposed a number of policy recommendations for insuring systemic reform as current initiatives make their way through the courts and the legislatures. A review of the relevant literature reveals at least the following ten reform standards that have been advanced:

- ⟨ There must be full adherence to accepted international law precepts relating to universal suffrage, including Article 25 of the International Covenant on Civil and Political Rights (ICCPR), and Article 5(c) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD).³¹² The ICCPR provides every citizen with the **right and opportunity to vote unencumbered by race, sex, religion, or other “unreasonable restrictions.” CERD enjoins distinctions as to race, color, or national or ethnic origin to participate and vote in elections. In addition, CERD condemns laws and practices with an invidious racially discriminatory impact, regardless of intent.**³¹³ As such, adherence to this international human rights convention would circumvent the hurdle of “intent” which has hindered the success of some voting rights litigation. Although both of these conventions have been ratified by the United States, ratification has occurred with “reservations, understandings and declarations,” severely restricting their use in U.S. courts.³¹⁴
- ⟨ Persons who are incarcerated must be allowed the opportunity to vote via absentee ballot, and the institutional infrastructure must be put into place to make this recommendation a reality. One of the more recent countries to adopt this policy was South Africa, which recently ruled that prisoners must not be disenfranchised and that laws which provide for their disenfranchisement are inconsistent with accepted international norms and principles.³¹⁵ In addition, prisoners in the United States are counted in the census where they are imprisoned, as opposed to their state of residency. By contrast, college students can either be counted in their home towns or at their college, and can vote by absentee ballot. Prisoners must be allowed to have a similar choice.³¹⁶
- ⟨ There must be full, automatic restoration of voting rights in all of the states immediately upon release from incarceration, and states must insure that information about voting rights is widely disseminated and readily available. The American Law Institute’s Model Penal Code has adopted this policy, stating that people should be disqualified from voting only while imprisoned.³¹⁷ In 1980 the American Bar Association Standards on Civil Disabilities of a Convicted Person stated, “[p]ersons convicted of any offense should not be deprived of the right to vote” and that laws subjecting convicts to collateral civil disabilities “should be repealed.”³¹⁸

- < **There must be full, automatic restoration of voting rights in all of the states immediately upon completion of sentence, including any term of probation or parole, and states must insure that information about voting rights is widely disseminated and readily available. The prestigious bipartisan National Commission on Federal Election Reform, led by former Presidents Jimmy Carter and Gerald Ford, included this as one of its major policy recommendations.³¹⁹**
- < The blanket, permanent disenfranchisement of persons convicted of specified crimes, including electoral offenses, must be eliminated. If, on an individual, narrowly-tailored basis, an offense is deemed to be rationally related to a legitimate state regulatory interest, then specific notice must be provided to the person at the charging stage that disenfranchisement could be a consequence of a criminal conviction. If such disability is made part of the sentence by the judge, provision must be incorporated for the restoration of voting rights after demonstrated rehabilitation.
- < The decision as to whether or not a petition for re-enfranchisement should be granted must not be left to the unreviewable, discretionary decision of a governor or state legislature.
- < Statutory waiting periods before being eligible to apply for voting rights restoration must be eliminated.
- < Payment of fines and debts must be eliminated as a factor in determining who is qualified to vote. Such a policy is akin to the disgraced, discriminatory requirement of past poll taxes.
- < Onerous and intrusive provisions that do nothing more than make it more difficult for former felons to vote must be eliminated, and procedures must be streamlined to eliminate unwarranted delay. Some of these requirements include submission of DNA samples, lengthy background investigations, notice requirements, eligibility based on type of crime, eligibility based on date of conviction.
- < There must be a fundamental shift from punishment and incarceration to prevention and rehabilitation as the nation's crime control strategy. A recent study commissioned by the Open Society Institute reveals that "Americans strongly favor rehabilitation and re-entry programs over incapacitation as the best method of insuring public safety."³²⁰ This changing paradigm in public perception must be translated into an investment in balanced, multi-faceted policies and procedures which dismantle the structural impediments to successful re-integration into our democratic society. Former felons who have paid their debt to society must not be punished into perpetuity through obstacles such as disenfranchisement, loss of professional licenses, employment and educational opportunities, housing, welfare, and other public benefits, to name a few.

RE-ENFRANCHISEMENT STRATEGIES

As progressive forces continue to build re-enfranchisement campaigns around legislative proposals, litigation and selected policy recommendations, there are pragmatic actions that can be implemented today to help increase the number of former felons who can initiate and navigate voter restoration processes. Through the mobilization of progressive forces and the use of targeted communication strategies, actions can be taken now to help heighten public concerns about current disenfranchisement schemes, while building support for re-enfranchisement efforts. These approaches may eliminate some of the barriers that unfairly prolong the denial of voting opportunities for former felons.

Re-enfranchisement proponents can start by identifying and working with individuals and organizations that routinely interface with former felons. Together, progressive groups can develop, discuss and disseminate action plans that will establish efforts to recognize and assist former felons seeking restoration of their voting rights. The plans can describe creative options for recruiting and training lawyers and other advocates who are willing and able to assist former felons in filing voter restoration applications and who also are prepared to monitor the manner in which these applications are managed throughout the process. The active involvement of trained advocates providing technical assistance to applicants throughout the voter restoration process will increase the likelihood that fewer applications will be rejected or that procedures will be delayed based on nominal errors. The active participation of the Bar, moreover, can strengthen the alliance of re-enfranchisement supporters and cultivate a positive show of credibility and legitimacy for the democracy pursuits of former felons.

Advocates can also identify and contact the government officials and appointed personnel responsible for processing voter restoration applications. It is important to know the decision makers at each stage of the voter restoration process and to know whether these processes are impacted by unwritten rules or informal office practices. Advocates should conduct “walk-throughs” and push for audits of the management systems that process the voter restoration applications. Advocates can engage the media in exposing any inconsistencies and weaknesses that are discovered by first-hand observations.

Advocates can generate interest by focusing public attention on voter restoration systems that are marked by understaffed offices, untrained personnel, unusual backlogs and unfair requirements. These public awareness campaigns can be built upon the collection, analysis and illumination of detailed data, by race and gender, regarding the number and status of all applications at every stage of the voter restoration process. Advocates can demand that efficient data collection systems be put in place that allow for easy public access. Advocates can be trained to use the data to expose deficiencies in the system as a foundation for promoting systemic reforms.

Re-enfranchisement supporters can also personalize and promote the plight of disenfranchised individuals and the uphill struggles they face in seeking to participate meaningfully in our democracy. The compelling stories of reformed offenders can enlighten a skeptical public.

The national, state and local resource organizations listed below should be contacted for detailed information on re-enfranchisement activities that are now underway.

B.

NATIONAL STATE AND LOCAL RESOURCE ORGANIZATIONS

As noted earlier, the issue of former felon disenfranchisement must be viewed comprehensively, as it encompasses civil/human rights, prison reform, election reform, and basic democracy issues. As such, selected national organizations that focus on these issues, as well as state and local organizations that specialize in prison issues in the 13 states most negatively impacted by felony disenfranchisement laws have been provided. The national organizations in this listing are by no means exhaustive, but represent a cursory sampling of groups who may have this issue as part of their broader agenda, or may include such an issue in the future. The state and local portion of this Guide was compiled using selected organizations from the Prisoners' Assistance Directory of the National Prison Project of the ACLU Foundation (twelfth edition 11/98). As noted in that Directory's Introduction, "Many organizations in the prisoners' assistance area tend to undergo frequent changes in personnel and location and their very existence is often tenuous."

A cursory survey of state and local organizations revealed that most have no specific resources at their disposal to assist or refer anyone who needs assistance regarding the voting rights restoration process in their jurisdiction, and would welcome such a resource. It is hoped that relevant national, state, and local organizations join hands to collectively eradicate this last vestige of unfulfilled democracy in the voting arena.

NATIONAL ORGANIZATIONS

Advancement Project

1730 M Street N.W., Suite 401
Washington, D.C. 20036
(202) 928-9557

American Friends Service Committee

1501 Cherry Street
Philadelphia, PA 19182
(215) 241-7130

Americans for Democratic Action

1629 K Street, N.W., Suite 210
Washington, D.C. 20006
(202) 785-5980; www.adaction.org

American Civil Liberties Union

125 Broad St., 17th Floor
New York, N.Y. 10004
(212) 549-2500
National headquarters of the ACLU

American Civil Liberties Union Washington Office

122 Maryland Ave., N.W.
Washington, D.C. 20002
(202) 544-1681; www.aclu.org

Amnesty International USA

322 Eighth Avenue
New York, N.Y. 10001

Black Voices for Peace

(202) 232-5690

Brennan Center for Justice

161 Avenue of the Americas, 5th Floor
New York, N.Y. 10013
(212) 998-6730

Center for Constitutional Rights

666 Broadway, 7th Floor
New York, N.Y. 10012
(212) 614-6464; ccr@ipc.apc.org

New York, N.Y. 10011
(212) 206-7070; Fax (212) 366-6323

Leadership Conference on Civil Rights
1629 K Street, N.W., 10th floor
Washington, D.C. 20006
(202) 466-3311; www.civilrights.org

Lawyers Committee for Civil Rights Under Law
1401 New York Ave., N.W. Suite 400
Washington, D.C. 20005
(202) 662-8600; www.lawyerscomm.org

Lawyers Committee for Civil Rights and Urban Affairs
11 DuPont Circle, N.W., Suite 400
Washington, D.C. 20036
(202) 319-1000

Human Rights Watch
350 Fifth Ave. 34th Floor
New York, N.Y. 10018
(212) 290-4700; www.hrw.org

International Human Rights Law Group
1601 Connecticut Avenue, Suite 700
Washington, D.C. 20009

Joint Center on Political and Economic Studies
1090 Vermont Avenue, N.W., Suite 100
Washington, D.C. 20005

League of Women Voters
1730 M Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 429-1965; lwv@lwv.org

League of United Latin American Citizens (LULAC)
2000 L Street, N.W., Suite 610
Washington, D.C. 20036
(202) 833-6130

Legal Services for Prisoners with Children
100 McAllister Street
San Francisco, CA 94102
(415) 255-7036

Mennonite Central Committee, U.S. Office on Crime and Justice
Box 500
Akron, PA 17501
(717) 859-3889

Mexican American Legal Defense and Educational Fund (MALDEF)
733 15th Street, N.W., Suite 920
Washington, D.C. 20005

NAACP Legal Defense and Educational Fund
99 Hudson Street, Suite 1600
New York, NY 10013
(212) 965-2249; www.NAACPLDF.org

NAACP Legal Defense and Educational Fund
1444 Eye Street, N.W., 10th Floor
Washington, D.C. 20005

NAACP Washington Bureau
1025 Vermont Avenue, N.W. Suite 730
Washington, D.C. 20005
(202) 638-2269

NAACP National Voter Fund
2001 L Street, N.W., Suite 1051
Washington, D.C. 20036
(202) 898-0960

National Association of Sentencing Advocates
514 Tenth Street, N.W., Suite 1000
Washington, D.C. 20004
(202) 628-0871; www.sentencingproject.org/NASA

National Black Caucus of State Legislators
444 North Capitol Street, N.W., Suite 622
Washington, D.C. 20001
(202) 624-5457

National Center on Institutions and Alternatives
635 Slaters Lane, Ste. G-100
Alexandria, VA 22314
(703) 684-0373; Fax: (703) 684-6037

National Coalition to Abolish the Death Penalty

920 Pennsylvania Ave. N.W., Suite 1010
Washington, D.C. 20003
(202) 543-9577; www.ncadp.org

National Coalition on Black Civil Participation

1025 Vermont Ave., N.W., Suite 1010
Washington, D.C. 20005
(202) 659-4929; www.bigvote.org

National Convocation of Jail and Prison Ministers

P.O. Box 1791
Indio, CA 92202
(760) 394-4696; Danny.Yert@tenerhealth.com

National Council of La Raza

1111 19th Street, N.W., Suite 1000
Washington, D.C. 20036

National Prison Project of the ACLU Foundation

733 15th Street, N.W., Suite 620
Washington, D.C. 20005
(202) 393-4930

National Trust for the Development of African-American Men

www.keepthetrust.org

National Urban League

120 Wall Street
New York, N.Y. 10005; info@nul.org

National Veterans Legal Services Project

2001 S Street, N.W., Suite 610
Washington, D.C. 20009
(202) 265-8305;
nvlsp@cyberreaim.net; www.nvlsp.org

Open Society Institute Policy Center

1120 19th Street, N.W., 8th Floor
Washington, D.C. 20036
(202) 721-5600; www.osi-dc.org

People for the American Way Foundation

2000 M Street, N.W.
Washington, D.C. 20036
(202) 467-2392; www.pfaw.org

Prison Fellowship International

P.O. Box 17434
Washington, D.C. 20041
(703) 481-0000; info.pfi.org;
www.prisonfellowshipintl.org

Prison Library Project

976 West Foothill Blvd., Ste. 128
Claremont, CA 91711

Prisoner Visitation and Support (PVS)

1501 Cherry Street
Philadelphia, PA 19102
(215) 241-7117; Fax (215) 241-7227

The Sentencing Project

918 F Street, N.W., Suite 501
Washington, D.C. 20004
(202) 628-0871; Fax (202) 628-1091

Stop Prisoner Rape, Inc.

6303 Wilshire Blvd., Suite 205
Los Angeles, CA 90048
(323) 653-STOP; (323) 653-7867

U.S. Commission on Civil Rights

624 9th Street, N.W., 6th Floor
Washington, D.C. 20425

U.S. Department of Justice, Civil Rights Division

Special Litigation Section
P.O. Box 66400
Washington, D.C. 20035-6400
(202) 514-6255

C. STATE AND LOCAL ORGANIZATIONS

ALABAMA

ACLU of Alabama - Olivia Turner
207 Montgomery St., Ste. 825
Montgomery, AL 36101
(334) 262-0304; acluofal@aol.com
Prison conditions; limited direct referrals

Aid to Inmate Mothers - Carol Potok
P.O. Box 986
Montgomery, AL 36101-0986
(334) 262-2245; (800) 679-0246; inmatemoms@mindspring.com
Transitional program for mothers who are between 18 and 24 months of their release dates

Alabama CURE - Aaron McCall
410 S. Perry
Montgomery, AL 36104
(334) 264-7416; halbert@mindspring.com
Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

Re-Entry Ministries, Inc. - Hank or Jackie Gray
2224 3d Ave.
Birmingham, AL 35203
(205) 320-2101; reentry@aol.com
Primarily an organization for former felons. Numerous programs including support groups.

Southern Poverty Law Center - Rhonda Brownstein
P.O. Box 2087
Montgomery, AL 36102-2087
(334) 956-8200
Class action civil rights suits on prison conditions, employment discrimination, voting rights and hate crimes

ARIZONA

Arizona CLU - Eleanor Eisenberg
77 E. Columbus, Suite 205
Phoenix, AZ 85012
(602) 650-1967; azclu@aol.com
Prison conditions, limited direct referrals, general community education

Middle Ground - Donna Leone Hamm
139 East Encanto Drive

Tempe, AZ 85281
(602) 966-8116; dhamm@idsweb.com
Education/training programs; counseling; legislative advocacy for prison reform; visitation litigation; public speaking; referrals

DELAWARE

ACLU of Delaware - Judith Melton
100 W. 10th Street, Suite 309
Wilmington, DE 19801
(302) 654-3966; delaclu@aol.com
Limited constitutional issues litigation

Delaware Center for Justice, Inc. - Janet Leban
501 Shipley St.
Wilmington, DE 19801
(302) 658-7174
Advocates on behalf of inmates and their families to resolve problems in the criminal justice system

Delaware CURE
270 Beachwood Ave.
Dover, DE 19901
(302) 674-2496; abolish@dmo.com
Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

FLORIDA

ACLU of Florida - Howard Simon
300 Biscayne Blvd., Suite 215
Miami, FL 33137
(305) 576-2336; acluf@aol.com
Limited constitutional issues litigation

Florida Justice Institute, Inc. - Randall C. Berg, Jr.
2870 First Union Financial Center
200 S. Biscayne Blvd.
Miami, FL 3313102310
(305) 358-2081 (no collect calls); fjrberg@aol.com
Civil rights actions regarding prison/jail conditions; lobbying for criminal justice reform; develops strategies for alternatives to incarceration

Florida Prison Legal Perspectives - Teresa Burns
P.O. Box 660-387
Chuluota, FL 32766
(407) 568-0200

Offers a bi-monthly newsletter

Transition

390 Northwest 2nd Street
Miami, FL 33128
(305) 374-1987
Job training and job placement services for former felons

IOWA

Iowa CLU - R. Ben Stone

446 Insurance Exchange Building
Des Moines, IA 50309
(515) 243-3576; iclu@radiks.net
Direct referrals, prison conditions, legislative issues on prison conditions

Iowa CURE - Darrell Smith

3466 Maple Glen Dr.

Bettendorf, IA 52722-2899

(319) 332-4567

P.O. Box 4718

Des Moines, IA 50306-4718

(515) 282-0549

Advocates reform of sentencing laws, including clemency procedure and sentence length.

Office of the Ombudsman - Iowa Citizens' Aide - Judith Milosevich, Assistant Ombudsman

Capital Complex

215 East 7th Street

Des Moines, IA 50319-0231

(515) 281-3592; jmilose@legis.state.ia.us

Handles issues related to prisons and Iowa Department of Corrections

Safer Foundation - Debra Beyerlein

605 Main Street, Room 215

Davenport, IA 52803

(563) 322-7974

Provides former felons with the tools they need to recreate solid, productive lives.

Supporting All Families of Errants (SAFE) - Darrell or Anita Smith

3466 Maple Glen Dr.

Bettendorf, IA 52722

Lobbies for changes in the criminal justice system

KENTUCKY

ACLU of Kentucky - Everett Hoffman
425 W. Muhammad Ali Blvd. Suite 230
Louisville, KY 40202
(502) 581-1181; acluky@iglou.com
Prison and jail conditions matters

Kentucky CURE

P.O. Box 826
Eddyville, KY 42038
(502) 388-2528
Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

Kentucky Dept. of Public Advocacy - Randall L. Wheeler

100 Fair Oaks Lane, Suite 301
Frankfort, KY 40601
(502) 564-8066
Post-conviction at state and federal level; training for legal services; referrals

MARYLAND

ACLU of Maryland - Susan Goering

2219 St. Paul Street
Baltimore, MD 21218
(410) 889-8555; aclu@aclu-md.org
Prison conditions cases.

ACLU of Maryland-Eastern Shore - Deborah Jeon

100 North Liberty Street
Centreville, MD 21617
(410) 758-1975

Baltimore Bar *Pro Bono* Project - Catherine M. Brennan

111 N. Calvert Street, Suite 629
Baltimore, MD 21202
(410) 758-1975
Refers eligible clients with civil legal matters to pro bono attorneys

Bureau of Rehabilitation, Inc. - Sandra Robinson

4601 Presidents Drive; Suite 240
Lanham, MD 20706
(301) 306-1260
Operates transitional services for men, women, and juveniles

Maryland CURE

P.O. Box 1583

Annapolis, MD 21404-1583

debron@home.com

Promotes and provides information about rehabilitative programs.

Maryland Voting Rights Restoration Coalition - Marvin "Doc" Cheatham

P.O. Box 1384

Baltimore, MD 21203

(410) 669-VOTE

Coalition of advocacy organizations promoting the restoration of voting rights for former felons

Felon Aid and Restoration of Baltimore, Inc. - Cathy R. Haggerty

218 E. Lexington Street, Suite 400

Baltimore, MD 21202

(410) 625-1144

Offers evaluation and assistance for employment readiness; emergency referrals

Prisoner Rights Information System of Maryland, Inc. - Stephen Meehan, Esq.

100 Church Alley

Chestertown, MD 21620

Civil rights cases pertaining to prison conditions; direct referrals

Prisoners Aid Association of Maryland, Inc. - Melinda Miles

2000 N. Calvert Street

Baltimore, MD 21218

(410) 727-8130

Provides services to inmates and former felons through community involvement and professional programs

MISSISSIPPI

ACLU of Mississippi - David Ingebretsen

P.O. Box 2242

Jackson, MS 39225-2242

(601) 355-6464; davidclu@aol.com

Civil rights constitutional actions.

NEVADA

ACLU of Nevada - Gary Peck

325 S. Third Street, Suite 25

Las Vegas, NV 89101

(702) 366-1226; aclunv@anv.net

Habeas corpus, prison and jail conditions; depending on availability of pro bono counsel

Nevada CURE - c/o Pat Hines
P.O. Box 467
Yerington, NV 89447
(775) 463-4884

TENNESSEE

ACLU of Tennessee - Hedy Weinberg
P.O. Box 120160
Nashville, TN 37212
(615) 320-7142; TNACLU@IX.NETCOM.COM

Reconciliation Ministries, Inc.
702 51st Ave., N.
Nashville, TN 37209
(615) 292-6371; Reconciliation@hotmail.com; www.suresite.com/tn/r/reconciliati/
Provides advocacy for families, information, referrals. Provides guest house for families visiting prisoners

Tennessee CURE
111 Breeder Road
Portland, TN 37148
(615) 323-7905; pj26davis@juno.com
Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

TEXAS

ACLU of Texas - Joseph Jacobson
P.O. Box 3629
Austin, TX 78764
(512) 441-0077; aclutx@aol.com
Prison conditions; referrals

ACLU of Texas, Dallas Office - Diana Philip
3301 Elm Street
Dallas, TX 75226
(214) 939-8089

ACLU of Texas, Houston Office - Constance J. Parrish
P.O. Box 132047
Houston, TX 77219

Dallas County Jail Programs Division - Charles W. Fawns
133 N. Industrial Blvd., LB31
Dallas, TX 75207
(214) 653-2880

Coordinates education, recreation, library and substance abuse programs for inmates within the Dallas County Jail system; assists in referrals to outside community agencies for released inmates.

Texas CURE - Linda Marin

P.O. Box 12623
Austin, TX 78711
(512) 280-4680

Referrals and information; no legal assistance. Organizes prisoners, their families and other concerned citizens to achieve reforms in the Texas criminal justice system.

Texas Inmates Families Association - Linda Reeves

P.O. Box 181253
Austin, TX 78718
(512) 448-6368; tifa@tifa.org; www.tifa.org

Advocacy organization for families with incarcerated loved ones for legislative and criminal justice reform and public awareness.

Welcome House, Inc. - Carolyn Harper

921 N. Peak Street
Dallas, TX 75204
(214) 887-0696

Offers housing, food, clothing, assists parolees, etc.

VIRGINIA

ACLU of Virginia - Kent Willis

6 North 6th Street, Suite 400
Richmond, VA 23219-2419
(804) 644-8022; acluva@aol.com

Select litigation limited to state prisons and county jails.

CURE-Virginia Chapter - Jean Auldrige

P.O. Box 19453
Alexandria, VA 22320-0453
(703) 765-6549

Networks with state legislature, prisoner family support groups, religious leaders, and administrative agencies which deal with prison and criminal justice issues.

Offender Aid and Restoration of Arlington County - Case Manager

1400 N. Uhle Street, Suite 704
Arlington, VA 22201
(703) 228-7030; oar.arlington@juno.com

Provides support, emergency assistance, identification, direct referrals, and planning for transition into the community

Offender Aid and Restoration of Charlottesville/Albemarle - Patricia Smith

750 Harris Street, Suite 207

Charlottesville, VA 22903

(804) 296-2441

Offers pre-trial services; supervision of community service and restitution; job assistance and emergency assistance for felons and families

Offender Aid and Restoration of Fairfax - David J. Manning

10640 Page Ave., Suite 250

Fairfax, VA 22030-4000

(703) 246-3033

Provides referrals to community resources; employment and vocational guidance

Offender Aid and Restoration of Richmond, Inc.

1 N. 3rd Street, Suite 200

Richmond, VA 23219

(804) 643-2746

Post-release services are provided to inmates released from a jail in the greater Richmond area and inmates from a state or federal prison returning to the Richmond area. A Post-Release Services Client Guide is available free to inmates

Prison Family Support Services, Inc. - Susie White

1 N. 5th Street, Suite 400

Richmond, VA 23219

(804) 643-2401

Information and referral for community resources

Richmond Community Action Program, Inc. - William Johnson, Jr.

1021 N. 17th Street

Richmond, VA 23219

(804) 788-0050 x 31

RCAP helps prison inmates and newly released parolees in making a successful transition from prison to society.

Virginia CURE

P.O. Box 19453

Alexandria, VA 22320

(703) 765-6549; ajeane@erols.com

Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

WASHINGTON

ACLU of Washington - Kathleen Taylor

705 Second Ave., Suite 300

Seattle, WA 98104-1799

(206) 624-2180; administration@aclu-wa.org

Complaints on a limited basis regarding conditions and treatment of prisoners

Institutions Project of Columbia - Patricia Arthur

101 Yesler, Suite 301

Seattle, WA 98104

(206) 382-3399

Handles conditions of confinement and civil rights claims

Washington CURE

P.O. Box 201

Monroe, WA 98272

Advocacy organization to reduce crime through criminal justice reform and the rehabilitation of errants

WYOMING

ACLU Wyoming Chapter - Marvin Johnson

514 Majestic Bldg.

1603 Capitol Ave.

Cheyenne, WY 82001

(307) 637-4565; wyoaclu@aol.com

General prisoner assistance; primarily by screening and referral

Coalition for Prison Reform

P.O. Box 485

Moorcroft, WY 82721

Wyoming Defender Aid Program - Dianne Courselle

P.O. Box 3035

Laramie, WY 82071

(307) 766-3223

Post-conviction, habeas, direct referrals, legal research

Wyoming Legal Services - John Burman

P.O. Box 3035

University Station

Laramie, WY 82071-3035

(307) 766-2104

Provides legal assistance for civil matters that are not fee-generating

ENDNOTES

1. In addition to felon disenfranchisement, modern parallels include bureaucratic ineptness, breakdowns in election systems, “ballot blockers,” failures to comply with the “Motor Voter” law and lack of funding for distressed election systems. With structural disenfranchisement, inequity is built into the system, resulting in millions of Americans being denied their right to vote. See *America’s Modern Poll Tax: How Structural Disenfranchisement Erodes Democracy*, ADVANCEMENT PROJECT (November 7, 2001), at p. 1, 34.
2. “Felony Disenfranchisement Law in the United States,” Update, THE SENTENCING PROJECT (April 2002), [hereinafter, Felony Disenfranchisement Update].
3. See *Id.* It is interesting to note that the only two states which allow incarcerated persons to vote do not have significant black populations. Indeed, in Vermont, the Director of Elections and Campaign Finance indicated that racial disenfranchisement in his state could not occur for demographic reasons, stating, “We don’t really have any minority groups in Vermont.” Similarly, in Maine, the Director of the Bureau of Corporations, Elections and Commissions remarked that he did not think racism was involved in disenfranchisement but, then, “we don’t have diversity.” See *America’s Modern Poll Tax: How Structural Democracy Erodes Democracy*, ADVANCEMENT PROJECT, p. 31.
4. See Felony Disenfranchisement Update, *supra* note 2.
5. Prior to the 1998 publication of *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*, issued jointly by the Sentencing Project and Human Rights Watch, the issue of former felon disenfranchisement received scant scrutiny. Thanks to national organizations with grassroots networks such as Citizens United for the Rehabilitation of Errants (CURE), the issue was kept alive; however, with the exception of sporadic spurts of national interest, sustained consideration was often relegated to the back burners of public attention.
6. See John N. Orsini, *Politically Silenced: The Facts, Flaws, and Anomalies of Former felon Disenfranchisement Law Today*, (2002), J.D. Candidate, Harvard Law School; Elizabeth Simson, *Justice Denied: How Felony Disenfranchisement Laws Undermine American Democracy*, AMERICANS FOR DEMOCRATIC ACTION EDUCATION FUND (March 2002); Christopher Uggen and Marcus Britton, *The Truly Disenfranchised: Felon Voting Rights and American Politics*, (Jan. 3, 2001); Patricia Allard and Marc Mauer, *Regaining the Vote: An Assessment of Activity Relating to Felon Disenfranchisement Laws* THE SENTENCING PROJECT (2000); The National Commission on Federal Election Reform, *To Assure Pride and Confidence in the Electoral Process*, 45 (August 2001); http://www.reformelections.org/data/reports/99_full_report.pdf; *Florida Conference of Black State Legislators et al. v. Michael Moore* (filed March 14, 2001 by the ACLU of Florida, Florida Equal Voting Rights Project, Florida Justice Initiative, Inc., and Florida Legal Services; *Thomas Johnson, et al. v. Jeb Bush, et. al.*, USDC Southern District of Florida, filed by Brennan Center for Justice at New York University Law School and the Lawyers Committee for Civil Rights Under Law (2000); Jamie Fellner and Marc Mauer, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States*, HUMAN RIGHTS WATCH AND THE SENTENCING PROJECT (1998); Virginia E. Hench, *The Death of Voting Rights: the Legal Disenfranchisement of Minority Voters*, 48 Case W. Res. L. Rev. 727 (1998); Alice Harvey, Comment, *Former felon Disenfranchisement and its Influence on the Black Vote: The Need for a Second Look*, 142 U. Pa. L. Rev. 1145 (1994); Andrew L. Shapiro,

Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy, 103 Yale L. J. 537 (1993); Matthew T. Bodie, *The Disenfranchisement of Former felons: An Argument for Change*, Senior Thesis presented to the faculty of Woodrow Wilson School of Public and International Affairs, Princeton University (1991) (on file with Advancement Project); *Hunter v. Underwood*, 471 U.S. 222 (1985); *The Disenfranchisement of Former felons: Citizenship, Criminality, and the Purity of the Ballot Box*, 101:1300 Harv. L. Rev. 1300 (1989); *Richardson v. Ramirez*, 418 U.S. 24 (1974).

7. *Johnson v. Bush*, filed with the United District Court for the Southern District of Florida (2000).

8. See ACLU Policy #241, “Prisoners, Paroles, Probationers, and Offenders.”

9. We think that this is a fair label for these 13 states even though some felons may succeed in regaining the vote because the case-by-case procedures are so obscure, burdensome and discretionary that the effect in these states is permanent disenfranchisement of the vast majority of former felons.

10. As the chart on page 18 shows, some of these states absolutely forbid the re-enfranchisement of persons convicted of certain felonies, which include election-related offenses, as well as murder and rape. For those categories of former offenders, an individualized process for restoration of the vote is not available.

11. See Ron Goldwyn, “Getting Former felons to Vote is Not Easy: They’re Eligible, but Many Don’t Know It,” PHILADELPHIA DAILY NEWS (May 21, 2002).

12. Historian J. Morgan Kousser, who testified as an expert in *Hunter v. Underwood*, supported the view that felony disenfranchisement laws were intended as “insurance” if other blatant forms of disenfranchisement were struck down. Cited in Virginia E. Hench, *The Death of Voting Rights: the Legal Disenfranchisement of Minority Voters*, 48 Case W. Res. L. Rev. 727, 743 (1998) (citations omitted) [hereinafter, Hench].

13. See Patricia Allard and Marc Mauer, *Regaining the Vote: An Assessment of Activity Relating to Felon Disenfranchisement Laws*, THE SENTENCING PROJECT (2000), p. 1. [hereinafter, Allard and Mauer]

14. A criminal conviction often results in civil as well as penal sanctions. In addition to losing the right to vote, there are a seemingly endless host of other collateral sanctions to a criminal conviction (statutory as well as customary), that confront the former felon who has paid her debt to society. Some of the more recent statutory restrictions include the following:

- ⟨ Lifetime welfare ban to those convicted of drug offenses. See Patricia Allard, *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses*, THE SENTENCING PROJECT (2002)
- ⟨ Acceleration of the termination of parental rights impacting growing numbers of women serving mandatory minimum sentences (Adoption and Safe Families Act of 1997).
- ⟨ Students convicted of any drug-related offense ineligible to receive any grant, loan or work assistance (Higher Education Act of 1998).
- ⟨ Permanent bar to those with a drug-related felony conviction from receiving federal cash assistance and food stamps during their lifetime (Personal Responsibility and Work Opportunity Reconciliation Act of 1996).
- ⟨ Persons with prior drug convictions precluded from living in government subsidized public housing (HUD ‘One Strike and You’re Out’ Policy in Public Housing 1996).

- ⟨ Various statutory restrictions on former felon employment, ranging from certain occupational licenses, to jobs involving nursing homes, child care facilities, and schools.

For a complete discussion of these various restrictions, *see generally* Amy Hirsch, *et al*, *Every Door Closed: Barriers Facing Parents With Criminal Records*, CENTER FOR LAW AND SOCIAL POLICY AND COMMUNITY LEGAL SERVICES, INC. (2002); *see also*, Margaret Colgate Love, “De-constructing the New Infamy: A Preview of the Section’s Project on Collateral Sanctions,” ABA Section on Criminal Justice, 16:3 CRIMINAL JUSTICE 30 (Fall 2001)

15. Allard and Mauer, *supra* note 13, at 1.
16. Fellner and Mauer, *supra* note 6, at 8.
17. *Id.*
18. Felony Disenfranchisement Update, *supra* note 2.
19. Lani Guinier and Gerald Torres, *The Miner’s Canary: Enlisting Race, Resisting Power, Transforming Democracy*, Harvard University Press (2002).
20. The terms pardon, clemency, and commutation appear throughout this Guide. Generally speaking, Webster’s defines these terms as follows: Pardon refers to a “release from punishment;” to “forgive;” “to pass over an offense without punishment;” or the “exemption of a convicted person from the penalties of an offense or crime by the power of the executor of the laws.” Clemency is defined as “mercy, especially toward an offender or enemy;” it is also characterized as “leniency.” Commutation is delineated as “a reduction of a penalty to a less severe one.” With respect to this Guide, unless otherwise defined in the text more broadly, each of these terms refers to the lifting of the specific disqualification of disenfranchisement from the record of a felon. *See* Webster’s II New Riverside University Dictionary (1994).
21. Elizabeth Sinson, *Justice Denied: How Felony Disenfranchisement Laws Undermine American Democracy*, AMERICANS FOR DEMOCRATIC ACTION EDUCATION FUND, (March 2002) p. 34.
22. *See Id.* at 3: *see also*, Hench, *supra* note 6, at 733-35; Andrew L. Shapiro, Note, *Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy*, 103 Yale L.J. 537, 537-38 (1993) [hereinafter, Shapiro].
23. U.S. Const. Amend. XV §1.
24. Shapiro, *supra* note 22, at 538.
25. *Id.* at 537 (citations omitted); Hench, *supra* note 6, at 735-36.
26. *See Harmon v. Forsenius*, 380 U.S. 528 (1965) (striking down the use of poll taxes as unconstitutional); *Louisiana v. United States*, 380 U.S. 145 (1965) (striking down the use of understanding clauses as unconstitutional); *Guinn v. United States*, 238 U.S. 347 (1915) (striking down grandfather clauses as unconsti-

tutional). The Voting Rights Act of 1965, 42 U.S.C. §1973b(a)-(d) (banned the use of literacy tests in determining voter eligibility.)

27. Shapiro, *supra* note 22, at 540 (citing REPORT OF THE PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION, STATE OF VIRGINIA 3076 (1906). Statement of delegate Carter Glass).

28. Hench, *supra* note 6, at 738 (citations omitted).

29. *Id.*

30. Hench, *supra* note 6, at 731, citing REPORT OF THE PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION, STATE OF VIRGINIA 3076 (1906) (Statement of Delegate Carter Glass) Delegate Glass, who later became a Senator, also admitted that purpose of the law was to “eliminate every Negro voter who can be gotten rid of.” *Id.*, citing Benno C. Schmidt, Jr., “Principle and Prejudice: The Supreme Court and Race in the Progressive Era, Part I: The Heyday of Jim Crow,” 82 Column. L. Rev. 835 (1982).

31. *Id.* at 737 (citing Donald G. Nieman, *Promises to Keep; African-Americans and the Constitutional Order, 1776 to the Present*, 107 (1991)).

32. Hench, *supra* note 6, at 740 (citing 2 Official Proceedings of the Constitutional Convention of the State of Alabama, May 21, 1901, to Sept. 3d, 1901 at 7-8 (1901)).

33. *Id.* at 739 (quoting Ala. Const. of 1901, art. VIII, §181).

34. *Id.* at 740 (citations omitted).

35. *Id.* at 743 (citations omitted).

36. Shapiro, *supra* note 22, at 540 (citations omitted).

37. *See Id.* at n20. Some of these crimes were bribery, burglary, theft, arson, perjury, forgery, embezzlement, and bigamy.

38. Hench, *supra* note 6, at 741 (quoting John L. Love, *The Disenfranchisement of the Negro* 15 (1899)).

39. Hench, *supra* note 6, at 743.

40. *Id.* at 740 (citing *United States v. Mississippi*, 380 U.S. 128 (1965)).

41. *Id.*

42. Shapiro, *supra* note 22, at 542 (citations omitted).

43. See U.S. Census Bureau, Census 2000.
44. Fellner and Mauer, *supra* note 6, at 2.
45. *Id.* at 8.
46. *Id.* at 2.
47. *Id.*
48. *Id.*
49. J. Juskiewicz, *Youth crime/adult time: Is justice served?*, Building Blocks for Youth (2002).
50. See, Francisco A. Villarruel and Nancy E. Walker, *¿Dónde está la justicia?*, Building Blocks for Youth Initiative, 27 (July 2002) [hereinafter, Villarruel and Walker].
51. See generally, Ronald Weich and Carlos Angulo, *Justice on Trial: Racial Disparities in the American Criminal Justice System*, LEADERSHIP CONFERENCE ON CIVIL RIGHTS, LEADERSHIP CONFERENCE ON CIVIL RIGHTS EDUCATION FUND (2000); David Cole, *No Equal Justice: Race and Class in the American Criminal Justice System*, THE NEW PRESS (1999); Marc Mauer, *Race to Incarcerate*, THE SENTENCING PROJECT (1999); Katheryn Russell, *The Color of Crime; Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and other Macroaggressions*, NEW YORK UNIVERSITY PRESS (1998); Clarence Lusane, *Pipe Dream Blues: Racism and the War on Drugs*, SOUTH END PRESS (1991).
52. Villarruel and Walker, *supra* note 50, at 32.
53. See generally, Nkechi Taifa, “Mandatory Minimum Sentences Open Up a Pandora’s Box,” National Prison Project Journal (July 1993).
54. See generally, Nkechi Taifa, “Three Strikes and You’re Out: Mandatory Life Imprisonment for Third Time Felons,” 20:2 Dayton Law Review 715 (1995).
55. See generally, Nkechi Taifa, “Cracked Justice: A Critical Examination of Cocaine Sentencing,” 27 Univ. of West Lost Angeles Law Review 107 (1996).
56. The United States Sentencing Commission is an independent agency in the judicial branch with responsibility for advising Congress on sentencing matters. The Commission’s principal purpose is to establish sentencing policies and practices for the federal courts. See Sentencing Reform Act, Pub. L. No. 98-473, 98 Stat. 2017 (codified as amended at 28 U.S.C. §994 *et. seq.* (1994)).
57. See. U.S. SENTENCING COMM’N, 100TH CONG., 2D. SESS., SPECIAL REPORT TO CONGRESS: MANDATORY MINIMUM PENALTIES IN THE FEDERAL CRIMINAL JUSTICE SYSTEM (1991) at ii. (“The disparate application of mandatory minimum sentences in cases in which available data strongly suggest that a mandatory minimum is applicable appears to be related to the race of the defendant,

where whites are more likely than non-whites to be sentenced below the applicable mandatory minimum ... This differential application on the basis of race ... reflects the very kind of disparity and discrimination the Sentencing Reform Act, through a system of guidelines, was designed to reduce”); U.S. SENTENCING COMM’N, 104TH CONG., 2D SESS., SPECIAL REPORT TO CONGRESS: COCAINE & FED. SENTENCING POL’Y (1995) (The bipartisan Commission unanimously agreed that the sentences for crack cocaine were too great and must be changed and that the sentences for simple possession of crack must be equal to simple possession of any other drug, including powder cocaine. The Commission’s majority agreed that the penalties for distribution of crack cocaine must be equivalent to other forms of cocaine as well. These recommendations, however, were summarily rejected by Congress and the Commission was directed to go back to the drawing board.)

58. *Id.* at 7.

59. *Id.*, at 8.

60. *Id.*

61. *Id.* at 7.

62. *Id.*

63. *Id.* at 8.

64. *Id.*

65. Allard and Mauer, *supra* note 6, at 7.

66. *Id.* at 8.

67. *Id.*

68. Fellner and Mauer, *supra* note 6, at 7.

69. *Id.* at 8.

70. *Id.*

71. Nicolas Thompson, *Locking up the Vote: Disenfranchisement of Former Prisoners was Real Crime in Florida*, THE WASHINGTON MONTHLY, Jan/Feb 2001, at 18.

72. *See* Fellner and Mauer, *supra* note 6, at 7-8.

73. *Id.* at 7.

74. Interview by Nkechi Taifa with Sam Jordan, Director of Health Care Now (May 23, 2002).
75. *Johnson v. Bush*, was filed in the U.S. District Court for the Southern District of Florida in September 21, 2000. It was dismissed by Judge James Lawrence King on July 18, 2002. Lawyers for the Plaintiffs' plan to appeal the ruling.
76. Initial Complaint, *Johnson v. Bush*, filed with the United States District Court for the Southern District of Florida, (2000).
77. Telephone Interview by Nkechi Taifa with Omali Yeshitela (May 22, 2002).
78. John N. Orsini, "Politically Silenced: The Facts, Flaws, and Anomalies of Former felon Disenfranchisement Law Today," J. D. Candidate, Harvard Law School, 2002, p. 65, [hereinafter, Orsini].
79. *Id.*, at 65-66.
80. *Id.*, at 66.
81. *Id.*
82. *Id.*, at 87.
83. Orsini, *supra* note 78, at 66.
84. *Id.*, at 69.
85. *Id.*
86. MISS. CODE ANN. § 99-19-37(1)-(2)(2002).
87. Christopher J. Mumola, "Veterans in Prison or Jail," U.S. Department of Justice Bureau of Justice Statistics Special Report (January 2000), p. 5, [hereinafter, Veterans in Prison].
88. *Id.*, at 3.
89. *Id.*, at 4.
90. *Id.*, at 3.
91. Orsini, *supra* note 78, at 66-68.
92. A new policy adopted by Virginia Governor Mark R. Warner, which into effect on September 1, 2002, permits persons who have been convicted of non-violent offenses to apply for a restoration of voting rights three years after completing their sentence, as well as any suspended sentence, probation, parole or supervised

release. The application will be reduced to one page for those convicted of non-violent offenses. The Commonwealth will continue to perform a criminal background check. For those offenders convicted of violent offenses, drug distribution of offenses, and voting fraud, the 5-year waiting period and the current application process will remain in place (See, press release, “*Governor Streamlines Restoration of Voting Rights for Non-Violent Offenders*,” August 30, 2002, at http://www.governor.state.va.us/Press_Policy/Releases/Aug2002/0830b.htm).

93. *Id.*, at 69-71.

94. *Id.*, at 70-71.

95. *Id.*, at 73.

96. *Id.*

97. DNA specimens are collected in Alabama correctional institutions as prisoners are being initially processed into the facility or processed for parole release at the end of their sentence. Probation officers may also collect DNA specimens from persons within their supervision. “The Alabama DNA Database,” Code of Alabama 1975, 36-18-20, at www.adfs.state.al.us/adfs/articles/d_dna.htm, visited 5/21/02.

98. Greg W. Steadman, “Survey of DNA Crime Laboratories,” U.S. DOJ Bureau of Justice Statistics Bulletin 2001, p. 5.

99. Telephone Interview by Nkechi Taifa with Sharon Johnson, Department of Forensic Sciences DNA Lab, (May 2002).

100. Governor’s Legislative Office for Tennessee, Term of Governor Sundquist: Executive Clemency Statistical Report (April 24, 2001).

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. Telephone Interview by Eva Melendrez with Kirstin Hardt, Legal Assistant to Brian Gentry, General Counsel to the Governor (May 20, 2002).

106. *Id.*

107. *Id.*

108. *Id.*

109. Telephone Interview by Damon Smith with Mitchell Clare, Felon Voter Registration Specialist (Clerk II) Newcastle County Elections Department (May 2001).

110. Telephone Interview by Eva Melendrez with Ms. Jennifer Conte, Administrative Assistant IV, Chiefs Office of the Division of Parole and Probation (May 20, 2002).

111. Fellner and Mauer, *supra* note 1, at 5-6 (citing Human Rights Watch Telephone Interview with Patricia Tucker, Extradition/Clemency Specialist, Office of the Secretary, Commonwealth of Virginia (October 5, 1998).

112. *See*, Cynthia Dillard, BIRMINGHAM NEWS (March 2, 1999).

113. Telephone Interview by Damon Smith with Joelene Juarez, Doc. 1, Native American Voter Assistance Specialist, Maricopa County Recorder's Office Elections Department (April 15, 2001).

114. *See* Dara Kam, "Blacks Up in Arms at Florida Backlog in Restoring Voting Rights," GANNETT NEWS SERVICE (February 14, 2002).

115. Telephone Interview by Patricia Lynch with staff member at the Office of Executive Clemency (March 6, 2002).

116. *See* Gary Kane and Scott Hiaasen, "Clemency Process Unfair to Blacks?" PALM BEACH POST, December 23, 2001, p. 1A.

117. Kenny Linn, J.D., M.L., CURE-Federal, Florida, "The Results of Disenfranchisement," published as part of PROCEEDINGS OF INTERNATIONAL CONFERENCE ON HUMAN RIGHTS AND PRISON REFORM - NATIONAL CURE, (October 6-11, 2001), p. 25 [hereinafter CURE Proceedings]

118. *See Johnson v. Bush*, Complaint, filed in the United States District Court for the Southern District of Florida, p. 24 (from data from the Office of Executive Clemency).

119. ACLU Press Release, Voting Rights Project.

120. CURE Proceedings, *supra* note 116, at 25.

121. Telephone Interview by Patricia Lynch with staff member at the Office of Executive Clemency (March 6, 2002).

122. *See* Tia Mitchell, "Parole Group Seeks Funding, Felons' Requests for Rights Pile Up," FLORIDA TIMES-UNION (City Edition), Mar. 16, 2002, at B-1. In granting the request, the Florida Senate reallocated \$2.5 million that had been originally intended for the juvenile justice budget. *See also*, Telephone Interview by Eva Melendrez with Mr. Jim DeBeaugrine, Staff Director, Criminal Justice Appropriations (June 10, 2002). The 14 new positions are to be effective as of October 1, 2002. *Id.*

123. Civil Action #01659, filed March, 1991, Circuit Court of the Second Judicial Circuit, Leon County, Florida General Jurisdiction.
124. See Gary Kane and Scott Hiaasen, "Clemency Process Unfair to Blacks?," PALM BEACH POST, Dec. 23, 2001, at 1A.
125. Greg W. Steadman, "Survey of DNA Crime Laboratories, 2001," USDOJ Bulletin, January 2002, p. 1.
126. *Id.*
127. One author proffers a hypothesis which interestingly addresses the following:
If a state has a significant minority population, then it is more likely to restrict former felons from voting. This hypothesis includes several assumptions. First, the criminal justice system includes a disproportionate number of minorities. Second, states with large minority populations attempt to limit minorities from voting. Third, these states are racially motivated to restrict former felons, because the effect is to limit the number of minorities who can vote. If each of these assumptions are accurate, then the issue of voting rights for former felons becomes a larger issue than prisoner rights or basic democracy. It becomes an issue of civil rights which merits strict scrutiny when considering the constitutionality of state statutes.
- See Debra Cohen, "Former felons - Why Don't They Vote?" (12/13/90), p. 4. (on file with Advancement Project)
128. See generally, Note, *The Disenfranchisement of Former felons: Citizenship, Criminality, and the Purity of the Ballot Box*, 101:1300 Harv. L. Rev. 1300 (1989).
129. See generally, sources cited *supra* note 6.
130. *Id.*
131. See www.usdoj.gov/crt/restorevote.htm.
132. Alabama Board of Pardons, FAQs (frequently asked questions), at <http://agencies.state.al.us/pardons/faq.html>.
133. Only applications made by the former felon himself will be considered by the Board of Pardons. ALA. CODE § 15-22-36 (c) (2002); Ala. Board of Pardons and Paroles Rules, Regulations, and Procedures Article 8 (Pardons), subsection 2, at <http://agencies.state.al.us/pardons/rules.html> [hereinafter *Ala. Rules*]. Applications for restoration are available at ALA. ADMIN. CODE r. 640-X-3-10.
134. ALA. CODE § 15-22-36(c); ALA/ ADMIN. CODE r/ 640-X-2-.13 (2002); *Ala. Rules*, *supra* note 131, at Article 8 (Pardons), subsection 4.
135. ALA. CODE § 15-15-22-36(c). The written approval may be given by a circuit judge in the circuit where you were convicted if the judge who tried your case is dead or no longer serving. *Id.*

136. ALA. CODE §36-18-24 (2002).
137. ALA. CODE §36-18-25(f)(2002).
138. ALA. CODE § 15-22-36(d).
139. ALA. CODE § 15-22-36(e) The crimes for which notice to the victim is required are:
- a. A Class A felony;
 - b. Any felony committed prior to the first day of January, 1980, which if committed after the first day of January, 1980, would be designated a Class A Felony;
 - c. Any felony involving violence, death or any physical injury to the person of another;
 - d. Any felony involving unlawful sexual assault or other unlawful sexual conduct on the person of another;
 - e. Any felony involving sexual assault, or a lewd or lascivious act upon a child under the age of 16 years or attempt thereof;
 - f. Sexual abuse or any other criminal conduct committed prior to the first day of January, 1980, which if committed after the first day of January, 1980, would be defined as sexual abuse under the Alabama Criminal Code;
 - g. Child abuse or any criminal conduct committed prior to the first day of January, 1980, which if committed after the first day of January, 1980, would be defined as child abuse under the Alabama Criminal Code;
 - h. Sodomy, or any criminal conduct committed prior to the 1st day of January, 1980, which if committed after the 1st day of January, 1980, would be defined as sodomy under the Alabama Criminal Code;
 - i. Any violation of Section 13A-6-69, as amended;
- ALA. CODE § 15-22-36(e)(1). *See also* ALA. ADMIN. CODE r. 640-X-3-.05 (2002).
140. ALA. CODE § 15-22-36(c).
141. ALA. CODE § 15-22-36(b).
142. *See* ALA. CONST. Art. V, § 124 (2002); § 15-22-36(c); *Ala. Rules, supra* note 147, at Article 8 (Pardons), subsection 7.
143. *Id.*
144. *Id.*
145. Ala. Op. Att’y Gen. 2001-276 (September 12, 2001).
146. *Id.*
147. ARIZ. REV. STAT. ANN. § 13-906 (2002).
148. ARIZ. R. CRIM. P. 292(a), cmt. (2002).

149. *Id.*
150. ARIZ. REV. STAT. ANN § 31-414(B).
151. ARIZ. REV. STAT. ANN § 31-414 (A). *See also* ARIZ. R. CRIM. P. 29.1(a), cmt. (2002)(explaining that a certificate of absolute discharge must be included in an application for restoration of voting rights).
152. ARIZ. R. CRIM. P. 29.2(B), cmt. (2002). *See also* ARIZ. REV. STAT. ANN. §§ 13-905 - 13-907.
153. ARIZ. R. CRIM. P. 29.2 (2002).
154. *Id.*
155. *Id.* at P. 29.4 (2002).
156. ARIZ. R. CRIM. P. 29.3 (2002).
157. ARIZ. REV. STAT. ANN. § 13-908 (2002).
158. ARIZ. R. CRIM. P. 29.5 (2002). The Comment to Rule 29.5 also notes that a copy of the court's order must be given to the applicant pursuant to ARIZ. R. CRIM. P. 35.6, and that this copy is often necessary to the applicant to secure the restoration of his rights. *See* ARIZ. R. CRIM. P. 29.5 cmt. (2002).
159. ARIZ. REV. STAT. ANN. § 13-905(A) (2002).
160. ARIZ. REV. STAT. ANN. § 13-905 (B).
161. *See* ARIZ. REV. STAT. ANN. § 13-906(B) (2002); § 13-905(B).
162. ARIZ. R. CRIM. P. 29.1 (2002). The Comment to Rule 29.1 explains that "(t)he notice need only generally describe the rights of which the person has been deprived."
163. *See* § 13-907(A). Note that certain restrictions placed on the convicted felon by the Department of Transportation as a result of the conviction are not lifted by a decision to set aside the judgment of guilt. Also, the conviction may still be used in future prosecutions against the applicant. *See id.*
164. ARIZ. REV. STAT. ANN. § 13-908 (2002).
165. *Id.* at § 13-3821 (2002).
166. *Id.*, at § 13-118 (2002).
167. *Id.* at § 13-907(B) (2002).

168. *See* Ariz. Op. Att’y. Gen. 68-17 (“A full and unconditional pardon ... has the effect of absolving the convicted felon of all legal consequences of his crime.”)
169. *See* ARIZ. REV. STAT. ANN. § 13-912 (2002).
168. *Id.* at § 13-910 (2002).
171. *Id.* at § 13-910(B); ARIZ R. CRIM. P. 29.2(a), cmt (2002). Absolute discharge is defined as occurring “after a person has served his entire sentence or term of probation, or has received early termination under [certain probation and parole statutes].” *Id.*
172. ARIZ. REV. STAT. ANN. § 13-909 (2002).
173. *Id.* at § 13-909(A); ARIZ. R. CRIM. P. 29.2(a), cmt. (2002).
174. *See* Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Arizona,” (Dec. 2000), at <http://usdoj.gov/crt/restorevote/Arizona.htm>; *accord* Office of the Pardon Attorney (DOJ/OPA), U.S. Department of Justice, *Civil Disabilities of Convicted Felons: A State-by-State Survey* (October 1996) at p. 25.
175. DEL. CONST. ART. V. § 2 (1975-2001).
176. *Id.*
177. *See* Del. Board of Pardon Web site, at <http://www.state.de.us/sos/pardons/> [hereinafter Del. Bd. of Pardons Website], (“The Governor cannot grant a pardon or commutation in the absence of a recommendation from the Board of Pardons. The Governor is not bound to accept the recommendation of the Board, but exercises independent judgment in all cases.”).
178. DEL. CONST. ART. VII, § 1 (1975-2001).
179. However, any of the rules pertaining to the Board of Pardons may be waived by a majority of the Board for good cause. *See* Rules of Del. Board of Pardons, Rule 10, at <http://www.state.de.us/sos/pardrule.htm>. [hereinafter *Del. Rules*].
180. *See* Delaware Board of Pardons Instructions for Filing a Petition (Application) for Pardon, at <http://www.state.de.us/sos/pardinst.htm>.
181. *See* Delaware Board of Pardons Cover Sheet, at <http://www.state.de.us/sos/parcov2.htm>.
182. *Del. Rules*, *supra* note 176, at Rule 3(b)
183. *See id.* at Rule 9.

184. *Id.* at Rule 9(a).

185. *See id.* at Rule 8.

186. *See* Del. Board of Pardon Web Site, *supra* note 177.

187. The Delaware code defines the “expiration” of a sentence to have occurred once the person convicted “has served the required sentence of imprisonment, parole, work release, or supervised custody and community supervision and has also paid all financial obligations and restitution required by the sentence.” DEL. CODE ANN. Tit. 15, § 6102(b) (1975-2001).

188. DEL. CODE ANN. Tit 15, § 6103(b)(1975-2001).

189. DEL. CODE ANN. Tit 15, § 6102(a)(2)(1975-2001).

190. DEL. CODE ANN. tit. 15, § 6106 (1975-2001).

191. DEL. CODE ANN. Tit 15, § 6104(c). This section further provides that “[e]ach stage of the review process shall be completed within a reasonable time.” *Id.*

192. *See* Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote; Delaware,” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Delaware.htm>.

193. FLA. CONST. Art. 1V § 8(a) (2001). Note that effective January 7, 2003, this provision will be amended to require the governor to file the order with the custodian of state records (instead of the Secretary of State), and to get the approval of only two cabinet members (instead of three).

194. Florida Parole Commission Rules of Executive Clemency, Rule 5(1)(A), at <http://www.state.fl.us/fpc/RULES-6-14-01.pdf> [hereinafter *Fla. Rules*]. Note that the Florida Parole Commission Web site contains two sets of rules posted: the “New Rules of Executive Clemency” cited above, and the “Rules of Executive Clemency,” at <http://www.state.fl.us/fpc/roec.pdf>. The “New Rules” had an effective date of June 14, 2001. (*Fla. Rules*, at Rule 18), indicating that they supersede the other set of rules, which have an effective date of January 1, 2000.

195. FLA. STAT. ANN. § 944.293 (2000).

196. *Fla. Rules*, *supra* note 208, at Rule9 (C).

197. *Id.* at Rule 9 (A).

198. *Id.* at Rule 9(C).

199. *Id.* at Rule 9(A).

200. *Id. at* Rule 9(C).

201. *Id. at* Rule 9(B).

202. *Id. at* Rule 6(1)(A). Until recently, the applicant also had to submit certified copies of the charging instrument and judgment for each felony of which he or she had been convicted. *Id. at* Rule 6(1)(B). For the recent elimination of this requirement, see Press Release, American Civil Liberties Union of Florida (April 24, 2002).

203. *Id. at* Rule 6(1)(A).

204. *Id. at* Rule 7.

205. *See* Plaintiffs' Initial Complaint, *Florida Conference of Black State Legislators v. Moore*, filed in the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, March 14, 2001, available at http://www.acluf.org/former_felons_voting_rights.html, and Information and Instructions on Clemency, Office of Executive Clemency.

206. Information and Instructions on Clemency, Office of Executive Clemency.

207. *Id.*

208. *Fla. Rules* of Exec. Clemency at Rule 10(A).

209. *Id. at* Rule 11(A).

210. *Id. at* Rule 10(B).

211. *Id. at* Rule 10(C).

212. *Id. at* Rule 14.

213. *Id. at* Rule 8.

214. Telephone Interview by Patricia Lynch with staff member, Florida Office of Executive Clemency (March 6, 2002).

215. *Id.*

216. *See* FLA. STAT. ANN. § 97.041(2) (2001).

217. Fla. Rules, *supra* note 206, at Rule 5(E)(1), 9(D)..

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218. IOWA CODE ANN. § 48A.6(1) (2001).
219. IOWA ADMIN. CODE r. 205-14.3(3)(a) (2002).
220. IOWA CODE ANN. § 914.2 (2001).
221. *Id.* at § 914.3(2) (2001).
222. Iowa Application for Restoration of Citizenship: Right to Vote and Hold Public Office, available upon request from the Iowa Board of Parole. (The Iowa Administrative Code recently changed to streamline the process, so that a former felon need only complete the afore-referenced one-page Application for Restoration of Citizenship, regardless of date of discharge).
223. Iowa Instructions for Restoration of Citizenship: Right to Vote and Hold Public Office, available upon request from the Iowa Board of Parole.
224. Telephone Interview by John Orsini with Kristin Hardt, Legal Assistant, Office of the General Counsel, Iowa's Governor's Office (April 11, 2002).
225. IOWA CODE ANN. § 914.3(1) (2001); IOWA ADMIN. CODE r. 205-14.5(1)(b) (2002).
226. IOWA CODE ANN. § 914.5 (2001).
227. *Id.* at §914.4 (2001).
228. *Id.*, at § 914.6(1), (3) - (4) (2001).
229. IOWA ADMIN. CODE r. 205-14.5(4)(a) - (b) (2002).
230. See Civil Rights Division, U.S. Department of Justice, "Restoring Your Right to Vote: Iowa," (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Iowa.htm>.
231. IOWA CODE ANN. § 196.045(2)(2001).
232. *Kent. Corrections Policies and Procedures*, at § 27-27-01 (VI)(B).
233. Kentucky Division of Probation and Parole, Application for Restoration of Civil Rights, available upon request from the Kentucky Department of Corrections.
234. KENT. REV. STAT. ANN. § 27A.070 (2002).
235. *Id.*, at § 116.113(3) - (4) (2002).
236. *Id.* at § 116.113(4). An unofficial list of county boards of elections is available at <http://www.lwvky.org/>

CitizenInfoService/Elections/electionboards.html.

237. KENT. REV. STAT. ANN. § 116.113(4).

238. KENT. CONST. § 145(1) (2001).

239. KENT. REV. STAT. ANN. § 196.045 (2001).

240. *Id.*, at § 196.045(1)(a) (2001); Kent Corrections Policies and Procedures, Volume III, July 10, 2001, § 27-27-01, Restoration of Civil Rights (Amended 7/10/01), available upon request from the Kentucky Department of Corrections.

241. Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Kentucky” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Kentucky.htm>.

242. *Id.*

243. See Kent. Op. Att’y. Gen. 36033 (1955).

244. See MD. CONST. Art. III, § 3-102(b)(1)(ii).

245. *Id.*, at § 3-102(b)(1)(i); § 7-601(b)(2).

246. See Maryland Parole Commission, Pardon Guidelines and Application for Pardon Petitioner Questionnaire, available upon request from the Maryland Parole Commission. [hereinafter *Md. Pardon Guidelines*].

247. MD. REGS. CODE tit. 12, § 08.01.01(C)(2002); § 08.01.169A)(2002); § 08.01.16(B)(2002).

248. Md. Dept. Of Safety and Correctional Services FAQs on Pardons, at #6 (Who may request a pardon?), at <http://www.dpscs.state.md.us/pcn/pardonfaq.htm> [hereinafter *Md. Pardon FAQs*]. See also Maryland Parole Commission, Pardon Guidelines and Application for Pardon Petitioner Questionnaire, available upon request from the Maryland Parole Commission [hereinafter *Md. Pardon Guidelines*].

249. MD. REGS. CODE tit. 12, § 08.01.16(C).

250. *Md. Pardon FAQs*, *supra* note 246, #6 (“Who may request a pardon?”). See also Pardon *Md. Pardon Guidelines*, *supra* note 246.

251. The Maryland Code defines a “crime of violence” as abduction; arson in the first degree; kidnapping; manslaughter, except involuntary manslaughter; mayhem and maiming, as previously proscribed under §§ 384, 385, and 386 of this article; murder; rape; robbery under § 486 or § 487 of this article; carjacking or armed carjacking; sexual offense in the first degree; sexual offense in the second degree; use of a handgun in the commission of a felony or other crime of violence; an attempt to commit any of the aforesaid offenses; assault in the first degree; and assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first degree, and assault with intent to commit a sexual

offense in the second degree, as these crimes were previously proscribed under former § 12 of this article. MD. CODE ANN. Art. 27 § 643(B)(a) (2001).

252. *Md. Pardon FAQs*, *supra* note 246, at #6 (Who may request a pardon?). *See also* *Pardon Md. Pardon Guidelines*, *supra* note 246.

253. Letter from Patricia K. Cushwa, Chairperson, Maryland Parole Commission to John Orsini (Apr. 11, 2002).

254. MD. REGS. CODE tit. 12, § 08.01.16(B) (2002).

255. Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Maryland” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Maryland.htm>

256. MISS. CONST. Art. 12, § 241 (2002). This provision does not affect the right to vote for President and Vice President, which are governed by the laws of Congress. *Id. Accord*, Civil Rights Division, U.S. Department of Justice, Restoring Your Right to Vote: Mississippi, (Dec. 2000), at <http://usdoj.gov/crt/restorevote/Mississippi.htm>

257. MISS. CONST. Art 5, § 124 (2002).

258. MISS. CODE ANN. § 47-7-31 (2002). Pursuant to this provision, the applicant’s attorney may inspect the Department of Corrections’ file with regard to the petition. *Id.*

259. Certain disqualifying crimes automatically preclude one from receiving probation. Mississippi Department of Corrections, Division of Community Service, Probation, at <http://www.mdoc.state.ms.us/Probation.htm>.

260. MISS. CODE ANN. § 47-7-41 (2002).

261. *Id.*

262. MISS. CONST. Art. 12, § 253 (2002).

263. MISS. CODE ANN. § 99-19-37(1) - (2) (2002).

264. MISS. CODE ANN. § 99-19-37(3)(2002).

265. NEV. REV. STAT. ANN. 213.157 (2002).

266. *Id.* at § 213.157(1)(2002).

267. *Id.* at § 213.157(2)(2002).

268. *Id.* at § 213.157(3)(2002).
269. NEV. REV. STAT. ANN. 209.511(1)(d) (2002); § 213.157(4).
270. *Id.* at § 213.155(2)(2002).
271. *Id.* at § 113.155(4)(2002).
272. NEV. REV. STAT. ANN. 176A.860(1)(2002).
273. *Id.* at § 176A.860(1) & (2)(2002).
274. TENN. CODE ANN § 2-19-143(1) (2002).
275. *See* Tennessee Voter Registration of Previously Convicted Felons, at <http://www.state.tn.us/sos/election/webcrime.htm>.
276. Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Tennessee,” (Dec. 2000), at <http://usdoj.gov/crt/restorevote/Tennessee.htm>.
277. TENN. CODE ANN. § 40-29-105(c)(4)(A)(2002).
278. *Id.* at § 40-29-105(c)(3)(2002).
279. *Id.* at § 40-29-105(b)(2).
280. *Id.* at § 40-29-105(b)(1)(A); § 40-29-105(b)(1)(B); § 40-29-105(b)(1)(C).
281. *Id.* at § 40-29-105(b)(3).
282. *Id.* at § 40-29-105(b)(5)-(6).
283. *Id.* at § 40-29-105(a).
284. Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Tennessee,” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Tennessee.htm>.
285. VA. CODE ANN. § 53.1-231.2.
286. *Id.*
287. *Id.* at § 53.1-231.2.
288. Drug felons are precluded by statute from applying for restoration through the courts. *See* §53.1-231.2.

The office of the Secretary of the Commonwealth, however, confirmed that the current governor, within the purview of his discretion, requires a seven year delay before he will consider restoration applications of drug felons. (Telephone Interview by John Orsini with the Office of the Secretary of the Commonwealth, March 15, 2002). However, effective September 1, 2002, persons convicted of non-violent offenses may submit a 1-page application to the governor seeking restoration of voting rights after a three year delay. A 5 year delay is required for all other crimes, including certain drug offenses.

289. See Virginia Secretary of the Commonwealth, Application and Instructions for Restoration of Civil Rights, at <http://www.soc.state.va.us/restore/pdf> [hereinafter *Va. Restoration Instructions*]

290. *Id.*, at pp. 4-6.

291. VA. CODE ANN. § 53.1-231.1 (2002).

292. (See, press release, “Governor Streamlines Restoration of Voting Rights for Non-Violent Offenders,” August 30, 2002, at http://www.governor.state.va.us/Press_Policy/Releases/Aug2002/0830b.htm).

293. Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Virginia,” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Virginia.htm>.

294. WASH. REV. CODE ANN. § 9.94A.637 (2002).

295. *Id.* at § 9.94A.637(3).

296. For the procedures for applying for a pardon or for restoration of voting rights after conviction for a crime committed after June 30, 1984, see WASH. REV. CODE ANN. § 9.94A.885 (2002).

297. WASH. REV. CODE ANN. § 9.96.050 (2002).

298. *Id.*

299. *Id.*

300. *Id.*, at § 9.95.240 (2002).

301. *Id.*

302. *Id.*

303. *Id.*, at § 5.44.090 (2002).

304. *Id.*

305. Telephone Interview by Eva Melendrez with Mrs. Bonnie Ross, Legal Affairs, Assistant to the General

Counsel (5-17-02).

306. WASH. REV. CODE ANN. § 9.94A.885(2) (2002). *Accord* Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Washington,” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Washington.htm>.

307. WYO. STAT. ANN. § 7-13-105(a) (1977-2001).

308. *Id.*, at § 7-13-804(a) (1977-2001).

309. *Id.*, at § 7-13-805 (1977-2001).

310. Telephone interview by Eva Melendrez with Brenda Kahl, Criminal Division Secretary, Office of the Attorney General of Wyoming (5-15-02).

311. WYO. STAT, ABB, § 7-13-105(a) (1977-2001); *accord* Civil Rights Division, U.S. Department of Justice, “Restoring Your Right to Vote: Wyoming,” (Dec. 2000), at <http://www.usdoj.gov/crt/restorevote/Wyoming.htm>.

312. *See* Fellner and Mauer, *supra* note 6, at 14.

313. *Id.*

314. *See, generally*, Nkechi Taifa, “Castration or Codification - the Application of the International Convention to Eliminate All Forms of Racial Discrimination to the U.S. Criminal Justice System,” 40 Howard L. J. 641 (Spring 1997) (for a discussion of restrictions relating to U.S. ratification of human rights treaties generally, and the Race Convention, specifically).

315. Allard and Mauer, *supra* note 6, at 14.

316. CURE Proceedings, *supra* note 116, at 28, remarks of Betty Cypser, Co-Chair, CURE-NY USA, “Voting by Prisoners.”

317. Andrew L. Shapiro, “Giving Cons and Ex-Cons the Vote,” THE NATION (December 20, 1993).

318. Michael D. Goldhaber, “Millions of Prisoners and Ex-Cons Have Lost the Ballot, But Suits Could Change That,” 20:3 NATIONAL LAW JOURNAL (October 30, 2000).

319. *To Assure Pride and Confidence in the Electoral Process*, NATIONAL COMMISSION ON FEDERAL ELECTION REFORM (August 2001), p. 45.

320. Peter D. Hart Research Associates, Inc., Changing Public Attitudes Toward the Criminal Justice System - Summary of Findings,” OPEN SOCIETY INSTITUTE (February 2002), p. 4.

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