



March 2014

# Restoring Voting Rights for Former Felons

by Estelle H. Rogers, Esq.

The story of American democracy is often told as the steady expansion of voting rights, but history has not yet caught up with one group: people with past felony convictions. In all but two states, citizens with felony convictions are prohibited from voting either permanently or temporarily. Incredibly, the United States and Armenia are the only countries that regularly permit permanent disenfranchisement of felons even after completion of their sentences.<sup>1</sup>

Policies on felon re-enfranchisement are inconsistent across the 50 states and create confusion among former offenders who wish to regain the right to vote, as well as the officials charged with implementing the laws. The result is a network of misinformation that discourages some legally eligible voters from registering to vote and places undue restrictions on others during the registration process. On the other hand, former offenders who are not fully informed of their state's restrictions may register and vote, and, in doing so, unwittingly commit a new crime.

Fair and consistent felon re-enfranchisement laws can contribute to the ex-offender's rehabilitation process. A uniform policy would also reduce the harmful impact of disenfranchisement on low-income and minority communities, where a disproportionately high number of individuals are or have been involved in the criminal justice system. The right to vote helps to foster a sense of community for those who feel disconnected and unfairly excluded from civic participation. Priority must be given to developing a nationwide policy that allows for reinstatement of voting rights and educating former offenders regarding restoration procedures.

This policy paper examines the varying ways in which states regulate or prevent voting by former felons, and concludes with policy recommendations.

## Felon Voting Rights Vary Wildly By State

Felon restoration laws vary significantly among the states. For example, a citizen who is convicted of a felony in Vermont can cast an absentee ballot from his jail cell while serving his sentence. If the same citizen commits the same crime in Kentucky, he can never vote again unless the governor acts to restore his rights. In other states, he may be able to vote once he completes some combination of parole, probation, and restitution. Re-enfranchisement may also depend upon whether or not an individual's child support payments are in arrears, or how long it has been since he has fulfilled the terms of his sentence.

If an individual moves from one state to another after completing a felony sentence, election officials in the new state may not know whether or not he is eligible to register and vote. If he does not inform them of his status as a former felon, they may never know.

Policies on felon voting in the 50 states fall into six broad categories: (1) permanent disenfranchisement for all felony offenders; (2) permanent disenfranchisement for some felony offenders; (3) re-enfranchisement after completion of sentence, including parole and probation; (4) re-enfranchisement after completion of prison time and parole (probationers can vote); (5) re-enfranchisement after completion of prison time (parolees and probationers can vote); and (6) states with minimal disenfranchisement.

At right is a chart of which states fall into each category.

(For citations to state law, please see Appendix on pp. 8–10.)

### Permanent Disenfranchisement for All Offenders\*

Florida  
Iowa  
Kentucky

### Permanent Disenfranchisement for Some Offenders\*

Alabama	Delaware	Nevada
Arizona	Mississippi	Tennessee

### Rights Restored After Completion of Sentence (including Parole and Probation)

Alaska	Maryland	North Carolina
Arkansas	Minnesota	Oklahoma
Georgia	Missouri	South Carolina
Idaho	Nebraska	South Dakota
Kansas	New Jersey	Texas
Louisiana	New Mexico	Washington

### Rights Restored After Completion of Prison Time (Parolees and Probationers May Vote)

District of Columbia	Michigan	Oregon
Hawaii	Montana	Pennsylvania
Illinois	New Hampshire	Rhode Island
Indiana	North Dakota	Utah
Massachusetts	Ohio	

### Rights Restored After Completion of Prison Time and Parole (Probationers May Vote)

California	Connecticut
Colorado	New York

### No Disenfranchisement for Felony Offenders

Maine  
Vermont

*\*States that permanently disenfranchise all or some felons may allow felons to apply, on an individual basis, to the state for an exemption that will restore their voting rights. Some states that generally allow felons to vote after completion of their prison term, parole, or probation make a limited exception for felons who committed election-related offenses; such felons may be permanently disenfranchised. Some states, such as Arizona, make a similar limited exception for persons convicted of treason. Nebraska makes a similar limited exception for persons convicted of treason.*

In three states, Kentucky, Florida, and Iowa, a felony conviction leads to the permanent loss of voting rights. The only exception occurs when a former offender is able to have individual rights restored by the government. For example, in Kentucky, if an ex-offender submits a letter or essay detailing why his voting rights should be restored, along with character references, the state may restore his rights.<sup>2</sup>

In Alabama, certain felonies, including those involving “moral turpitude,” result in a permanent loss of the right to vote, while others allow for re-enfranchisement after the sentence is complete and all fines and fees are paid. Delaware has a similar law.

In Arizona, a first-time offender can have rights restored upon completing the sentence (including parole and probation) and payment of “legal financial obligations.” A second offense makes the loss of rights permanent, unless restored at the end of probation by the judge who discharges the offender, or a successor judge.<sup>3</sup> Nevada offers restoration to first-time offenders only if the offense is non-violent; any violent crime, or any subsequent crime regardless of violence, results in permanent loss of the right to vote.<sup>4</sup>

Some states permanently disenfranchise only people convicted of election-related offenses. In Maryland, an individual convicted of buying or selling votes may not register to vote. Other felony offenders must finish parole and probation before registering.<sup>5</sup> In Missouri, an individual convicted of a felony or misdemeanor connected with the right of suffrage may not vote. However, other offenders regain the franchise after completion of parole and probation.<sup>6</sup> Similarly, in New Jersey, disenfranchisement is a penalty for committing election fraud,<sup>7</sup> and a court may, in its discretion, disenfranchise any person who violated New Jersey election law.<sup>8</sup>

There are ten specific felony offenses that result in permanent disenfranchisement in Mississippi. No other offenses, even other felonies, result in the loss of voting rights. In Wyoming, nonviolent first offenders can have their rights restored five years after completing their sentences. However, repeat or violent offend-

ers permanently lose the right to vote, unless restored by the Governor.<sup>9</sup>

In Florida, a person convicted of a felony faces several burdens before having her voting rights restored. Serious and repeat offenders must wait seven years after completion of a sentence and then argue at a hearing before the Board of Executive Clemency that their voting rights should be restored, while others must wait five years to apply to have their voting rights restored without a hearing.<sup>10</sup>

Tennessee has the most convoluted system. Due to frequent changes in the law, “the process for restoration of rights differs depending on when, in relation to five different time periods, a felony conviction occurred.”<sup>11</sup>

Several states automatically restore voting rights to former offenders after they have completed their entire sentence, including parole and probation. Nebraska is one of these, though the state imposes a two-year waiting period.<sup>12</sup> In other states, those on probation for felonies are allowed to vote once they have been released from prison and completed parole. Currently, four states follow this practice.

Thirteen states and the District of Columbia automatically restore the right to vote upon release from prison. Two states, Maine and Vermont, do not disenfranchise at all for felony convictions. In those states, an offender can vote by absentee ballot from his prison cell.

## Legal Concerns

Voting rights organizations and others have asserted legal challenges to the state practices identified above on the basis that they contravene constitutional guarantees under the Equal Protection Clause and the 24th Amendment prohibition on poll taxes. These state laws have generally withstood constitutional challenge, although some litigation has been successful.

Legal scholars argue that inconsistent implementation of state felony disenfranchisement laws by election officials violates the Equal Protection Clause of the Fourteenth Amendment. To overcome an equal protection challenge, a state should have to show that a state law is necessary to promote a legitimate state interest and narrowly tailored to do so.<sup>13</sup> Unfortunately, in a 1974 case, the U.S. Supreme Court exempted felony disenfranchisement provisions from strict scrutiny,<sup>14</sup> and lower courts have found that felon disenfranchisement laws promote legitimate state interests.<sup>15</sup> Later, the Supreme Court declared state felony disenfranchisement policies that reflected purposeful racial discrimination violated the Fourteenth Amendment.<sup>16</sup>

Alabama,<sup>17</sup> Arizona,<sup>18</sup> Arkansas,<sup>19</sup> Connecticut,<sup>20</sup> and Delaware<sup>21</sup> all have payment of restitution, fines, and fees as part of the re-enfranchisement requirements. In at least one of Tennessee's five different sets of standards, an offender is required to be current with child support as well. Regardless of compliance with all other aspects of a sentence, "because of provisions like these, people in poor financial situations... will continue to be barred from the polls."<sup>22</sup> This, in effect, creates the same kind of poll tax that was once used to circumvent the 14th Amendment and prevent African-Americans from voting.

In addition to the constitutional issues outlined above, several federal appeals courts have considered challenges to disenfranchisement laws under Section 2 of the Voting Rights Act of 1965 (VRA). However, these courts have unanimously held that felon disenfranchisement laws are effectively exempt from Section 2 challenges.<sup>23</sup>

## Re-enfranchisement Helps Disproportionately Affected Communities

Minority and low-income citizens are over-represented in the criminal justice system. The disenfranchisement rate of African Americans is 7.7% (2.2 million), while the disenfranchisement rate for the non-African-American population is 1.8%. At current incarceration rates, approximately 30% of African American men in the next generation will experience disenfranchisement at some point during their lives.<sup>24</sup> A 2008 study showed that African-American women are disenfranchised at nearly four times the rate of non-African-American women.<sup>25</sup> Of people in state prison for drug offenses, 45.6% are African American and 20.2% are Hispanic.<sup>26</sup> However, these numbers are largely due to inconsistencies in prosecution and sentencing and are not indicative of greater drug use in either community.<sup>27</sup> Research has shown that poor and non-white persons are more likely to be arrested, charged, convicted, and sentenced to prison than their wealthier, White counterparts.<sup>28</sup> This over-representation in prisons results in an under-representation of these same groups at the polls.

Those convicted are not the only ones who lose political representation as a result of stringent disenfranchisement policies. Studies have shown that many convicted felons come from the same inner-city neighborhoods. As a result, when felons lose the right to vote, it weakens the political power of the entire neighborhood, including residents who have no personal involvement in the criminal justice system.<sup>29</sup> "Increasingly, the ability of these communities to gain political representation and influence – and therefore access to public resources – is being thwarted by the American race to incarcerate."<sup>30</sup> Clearly, the de facto disenfranchisement of law-abiding citizens is an unacceptable consequence of a form of punishment intended for those who have committed a crime.

Finally, reintegration into society is essential to ensure community safety and reduce the risk of recidivism among those who have been incarcerated. According to the Brennan Center for Justice,

“[r]estoring the right to vote helps reintegrate people with criminal records into society and, by increasing voter participation, strengthens democracy.”<sup>31</sup> Civic participation instills in the offender a feeling of belonging in the community and a sense of responsibility toward it. This connection to others encourages former felons to be contributing members of society.

In contrast, withholding the right to vote fosters a sense of exclusion and disconnection from the larger community. In a survey of poor, homeless citizens with felony convictions, Matthew Cardinale gave voice to this sentiment, noting that many individuals responded that disenfranchisement caused them to feel they were “somehow only a fraction of a citizen.” Respondents also indicated that the sense of separation left little motivation to change their criminal behavior.<sup>32</sup>

## Awareness of Rights

In addition to a feeling of alienation among disenfranchised ex-offenders, Cardinale’s survey also revealed surprising information about the education of ex-offenders regarding voting rights. Eighty-six percent of respondents were confused about their voting rights; 90% said they were not told during the pre-incarceration legal process that they may lose their right to vote; and 96% received no information from prison or parole staff regarding re-enfranchisement.<sup>33</sup> Marc Mauer and Tushar Kansal of The Sentencing Project recommend that corrections officials in every state be required both to inform persons under their supervision of re-enfranchisement policies and to assist in the re-enfranchisement process.<sup>34</sup>

Similarly, a 2005 study conducted by The Brennan Center for Justice and Demos found that more than one-third of local election boards in New York State were improperly denying the right to vote to ex-offenders serving terms of parole or probation, and that some of these boards were doing so in conscious violation of state law. Thirty-two percent of boards illegally requested documentation before allowing these individuals to register.<sup>35</sup> Such practices can effectively disenfranchise a person who is legally entitled to vote, and similar practices may exist in other states as well.

## Momentum for Change

In recent years there have been several developments in the movement for felony re-enfranchisement that are encouraging to voting rights advocates. According to The Sentencing Project, 13 states have implemented policy reforms to expand access to voting for former felons between 1997 and 2013: “four states either repealed or amended lifetime disenfranchisement laws; two states expanded voting rights to persons under community supervision (probation and parole); and six states eased the restoration process for persons seeking to have their right to vote restored after completing sentence.”<sup>36</sup>

Alabama, for example, streamlined its process in 2003 by allowing non-violent offenders to apply for restoration of voting rights immediately upon completion of sentence. Other states, including Connecticut and Tennessee, took steps to streamline their processes or otherwise expedite the restoration process.<sup>37</sup>

Connecticut restored voting rights to persons on probation in 2001, though the language of the law required former felons to show proof of eligibility; in 2006, Connecticut repealed this requirement, removing potential paperwork barriers and increasing the likelihood that former felons will register and vote. In 2006, Rhode Island voters also approved the restoration of voting rights to ex-offenders on parole or probation. Rhode Island’s former law provided for restoration of rights only after parole and probation had been completed.<sup>38</sup>

In 2007, Maryland did away with its confusing sliding-scale of post-sentence disenfranchisement policies and restoration procedures, which varied based on criminal history and type of offense, and now provides for automatic restoration of voting rights to all felons upon completion of sentence. Other states, including Nebraska, repealed permanent disenfranchisement laws and replaced them with waiting periods after completion of sentence before voting rights can be restored. Nevada and Texas, on the other hand, have repealed their prior waiting periods, allowing rights to be restored upon completion of sentence.<sup>39</sup>

In 2008, the Supreme Court of Tennessee held that an offender's illegal disenfranchisement, which occurred when the trial court declared his crime to be "infamous" even though it was not listed as infamous under the statute, could be granted limited habeas corpus relief to restore his civil rights. The court also held that subsequent changes to the statute could not be retroactively applied to deem prior committed acts infamous.<sup>40</sup>

Several states, including New York, Florida, Louisiana, North Carolina, and New Jersey, have improved the processes by which ex-offenders are notified of their voting rights. For example, in 2010, New York implemented a requirement that criminal justice agencies provide voting rights information to persons eligible to vote after a felony conviction.<sup>41</sup>

In 2013, Virginia made administrative changes that made the process more automatic for formerly incarcerated nonviolent felons to have their rights restored by the Governor. Under current Virginia law, rights restoration must be approved by the Governor or other appropriate authority, such as a court, a process that previously involved case-by-case review. However, under a policy change adopted in 2013, the Governor began automatically restoring voting rights to all nonviolent offenders upon the completion of their sentences, including parole, probation, fines and restitution, on an individual basis. Each offender nonetheless needs to complete rights restoration paperwork before he or she can register to vote.<sup>42</sup>

Also in 2013, Delaware adopted a constitutional amendment eliminating its former 5-year waiting period for restoration of rights for the felonies for which restoration is available, though it maintained permanent disenfranchisement for certain crimes.<sup>43</sup>

Not all change at the state level has been favorable to former felons, however. In 2011, two more states decided to disenfranchise all ex-offenders: Iowa's Governor issued an executive order rescinding the state's former practice of re-enfranchising offenders who completed their sentences,<sup>44</sup> and Florida's Governor and Cabinet repealed the prior state policy of

automatically restoring voting rights to nonviolent offenders upon sentence completion.<sup>45</sup> In 2012, South Dakota enacted a law that abolished the right of offenders on probation to vote.<sup>46</sup>

Change is also being sought at the federal level. In 2009, then-Senator Russell Feingold and Representative John Conyers introduced the Democracy Restoration Act, which would restore the right to vote in federal elections to any felon who has been released from prison. This legislation, which was reintroduced in the 112th Congress by Senator Ben Cardin and Rep. Conyers,<sup>47</sup> has gained the support of numerous civil rights and criminal justice advocacy organizations, as well as faith groups.<sup>48</sup> In addition, over a dozen members of the law enforcement community have endorsed the Democracy Restoration Act, including the District Attorney of Kings County, NY, the Attorney General of Iowa, the Director of the Oklahoma Department of Corrections, the Chief of Police of Miami, the Chair of the Rhode Island Parole Board, the Chairman of the Illinois Prisoner Review Board, and the former United States Attorney for the Northern District of Alabama, among others.<sup>49</sup>

In addition, the American Bar Association, American Law Institute, American Probation and Parole Association, National Black Police Association, and the Association of Paroling Authorities International have passed resolutions supporting enfranchisement of offenders upon prison release.<sup>50</sup> Dozens of newspapers and magazines, including the New York Times, the Boston Globe, the Los Angeles Times, and Forbes, have run editorials urging that persons with felony convictions should be re-enfranchised.<sup>51</sup> Internationally, the United Nations' Committee on the Elimination of Racial Discrimination, concerned about "the disproportionate impact that the implementation of disenfranchisement laws has on a large number of... minorities," has recommended that only those persons convicted of the "most serious crimes" be disenfranchised, and that all persons be restored to their voting rights after completing their sentences.<sup>52</sup>

## Policy Recommendations

### *Restore Voting Rights to Felons Upon Release*

Project Vote recommends that voting rights be restored to felons upon release from prison. Restoration of the right to vote should be a fundamental part of an ex-offender's reintegration into society. This right should be extended to all ex-offenders not currently in state or federal custody, regardless of status as a parolee or probationer. Increased civic participation and responsibility will provide individuals with a sense of investment and involvement in their communities, and mitigate the risk of subsequent offenses. A clear and uniform policy will also be easier for election officials to administer and reduce the potential of former felons voting unlawfully.

### *Notification*

Individuals on trial for a felony offense should be notified before criminal proceedings that conviction of a felony, including conviction for a lesser felony charge as the result of a plea bargain, could result in the loss of certain civil rights, including the right to vote. Upon conviction and sentence, the offender should be notified of his or her eligibility for restoration of voting rights, and that he or she is entitled to assistance with voter registration as part of the release process. Upon release, the offender should be fully informed of his rights under state law and, where appropriate, should be offered assistance in the enfranchisement process.

### *Consistent and Enforceable Policy*

A policy should be adopted by each state that will allow for uniform enforcement with minimal chances for confusion and complication. The most practical policy would allow former offenders to regain their voting rights upon release from prison. This would both eliminate election officials' and correction officials' need to actively monitor a former offender's voting status, and reduce the probability of penalizing entire communities largely based upon low-income or minority status.

## Conclusion

Restoring the right to vote to ex-offenders is an integral aspect of reintegration into society. Consistent policies are necessary to prevent large-scale disenfranchisement of the ex-offenders themselves, as well as their communities. Society as a whole benefits when a representative government truly represents all its citizens.

## Appendix: Voting Laws for Former Felons, By State

PERMANENT DISENFRANCHISEMENT FOR ALL OFFENDERS		
Florida	Former offenders are prohibited from voting unless their civil rights are restored through an application process involving the Board of Executive Clemency.	Florida Statutes §§ 97.041(2)(b), 940.01(1), 940.05; Florida Rules of Executive Clemency §§ 4(G), 6, 9, 10
Iowa	Under state statutes, a former offender is prohibited from voting unless the Governor or President restores rights upon completion of the sentence. Formerly, Executive Order 42 granted a blanket restoration of the right to vote for all offenders that completely discharged their sentences, but, in 2011, Executive Order 70 rescinded this policy.	Iowa Code §§ 48A.6, 914.2 et seq.; Executive Order 70
Kentucky	Former offender is prohibited from voting unless voting rights are restored by executive pardon.	State Constitution Section 145
PERMANENT DISENFRANCHISEMENT FOR AT LEAST SOME OFFENDERS		
Alabama	“No person convicted of a felony involving moral turpitude...shall be qualified to vote until restoration of civil and political rights.”	State Constitution Article VIII
Arizona	First-time felony offender can have rights restored upon completion of probation and payment of restitution and fines; after a second offense rights can be restored after completing probation, but only by the judge who discharges the offender from probation or a successor judge, and the offender must wait a minimum of two years to file the application	Arizona Revised Statutes §§ 13-912 (first offense), § 13-905 (multiple offenses)
Delaware	Certain felonies (including murder, manslaughter, State Statutes, Title 15 Chapter 61 bribery or abuse of office, or sexual offenses) result in permanent disenfranchisement. For other felonies, parole, probation, fees, fines and restitution must have been completed for restoration of voting rights.	State Constitution Article V, Section 2; 15 Delaware Code § 6102
Mississippi	Ten crimes (murder, rape, bribery, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, and bigamy) result in permanent disenfranchisement. Other crimes do not result in disenfranchisement.	Mississippi Code § 23-15-11, State Constitution Article 12, Section 241
Nevada	Offenders convicted of a felony in another state must have restored their voting rights pursuant to that state’s laws. Offenders convicted in Nevada can have rights restored upon unconditional pardon, honorable discharge from parole except when previously convicted of certain categories of felony, or upon release from prison except when convicted of certain categories of felony.	Nevada Revised Statutes §§ 213.090, 213.155, 213.157, 293.540
Tennessee	Dependent upon when a felony was committed, and the nature of the felony, a person may not lose the right to vote at all. If the right to vote is lost, it may be restored through reversal of the conviction, receipt of a full pardon, verification that the crime was not declared “infamous,” restoration of rights by a circuit court, expiration of maximum sentence, successful completion of parole including restitution, and/or full payment of child support.	State Constitution Article IV, Section 2; State Statute § 2-2-139; Public Chapter 740 4(70); Crutchfield v. Collins, 607 S.W. 2D 478 (Tenn. Ct.App. 1980).
Virginia	Former offenders are prohibited from voting unless voting rights are restored by the Governor or other appropriate authority, such as a court. However, the Governor automatically restores voting rights to all nonviolent offenders after the completion of their sentences, including parole, probation, fines and restitution, on an individual basis.	Virginia Constitution Article II, § 1; Virginia Code §§ 24.2-101, 53.1-231.2; Letter from Governor McDonnell to Secretary of Commonwealth Kelly Regarding Restoration of Voting Rights for Nonviolent Felons (May 29, 2013), <a href="http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/2013GovernorLettertoSOC.pdf">http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/2013GovernorLettertoSOC.pdf</a>
Wyoming	First-time nonviolent offenders are eligible to apply for; restoration of voting rights 5 years after their sentence is complete, including parole and probation. Violent or repeat offenders can only restore voting rights by applying through the Governor.	State Constitution Article 6, Section 6; State Statutes § 6-10-106 and 22-3-102; Senate File 65 (passed 2003)

**Appendix: Voting Laws for Former Felons, By State(cont.)**

<b>VOTING RIGHTS RESTORED AFTER COMPLETION OF SENTENCE, INCLUDING PAROLE AND PROBATION</b>		
Alaska	Offender regains the right to vote after completion of prison, parole and probation.	Alaska Stat. Ann. § 15.05.030
Arkansas	Rights may be restored if offender provides proof of discharge from probation or parole, including fees, fines, and restitution.	Arkansas Constitution Amendment 51, § 11(d)(2)(B)
Georgia	“No person who has been convicted of a felony involving moral turpitude may register, remain registered, or vote except upon completion of the sentence.”	State Constitution Article II, Section 1, Paragraph 3
Idaho	Citizenship rights must be restored in order to restore right to vote. Full rights of citizenship “shall be restored” upon final discharge, i.e. satisfactory completion of imprisonment, probation, and parole.	State Constitution Article VI Section 3; Idaho Code § 18-310
Kansas	Offender must be pardoned or restored to his civil rights; regains civil rights after completion of prison, parole and probation	State Constitution Article V, Section 2; Kansas Statutes § 22-3722
Louisiana	Offender regains the right to vote after completion of prison, parole and probation.	Louisiana Revised Statutes § 18:102(A)(1), § 18:2(8)
Maryland	Individuals convicted of a felony may not register to vote if currently imprisoned or serving parole or probation, but may do so after their completion. An election-related offense exception exists: an individual may not register to vote if he has been convicted of buying or selling votes.	Maryland Code, Election Law § 3-102
Minnesota	Offender regains the right to vote after completion of prison, parole and probation, including suspended sentences.	Minnesota Statutes §§ 201.014(2)(a), 609.165; Minnesota Rules 8200.9115; Constitution Article VII, Section 1
Missouri	Felons regain the right to vote after sentence is completed, including parole and probation. An election-related offense exception exists: offenders convicted of a felony or misdemeanor connected with the right of suffrage may not vote.	Missouri Revised Statutes § 115.133(2)
Nebraska	Offender is eligible to register two years after completion of sentence including parole.	Nebraska Revised Statutes § 32-313(1)
New Mexico	Offender regains the right to vote after completion of prison, parole and probation.	State Constitution Article VII, Section 1; New Mexico Statutes § 31-13-1
North Carolina	Offender regains the right to vote after completion of prison, parole and probation.	State Constitution Article VI Section 2(3); N.C. General Statutes § 13-1
New Jersey	Offender regains the right to vote after completion of prison, parole and probation. An election-related offense exception exists: to regain voting rights, an offender who violated the state’s election statutes must be first pardoned or “restored by law to the right of suffrage.”	State Constitution Article II, § 1, ¶ 7; New Jersey Statutes § 19:4-1
Oklahoma	Offender regains the right to vote after completion of sentence (i.e. prison, parole, and probation).	Oklahoma Statutes, Title 26, § 4-101
South Carolina	Offender regains the right to vote after completion of prison, parole, and probation.	South Carolina Code § 7-5-120(B)(3)
South Dakota	Offender is removed from registration rolls while in prison, on parole, or on probation.	South Dakota Codified Laws § 12-4-18
Texas	Offender regains the right to vote after completion of prison, parole, and probation.	Texas Election Code § 13.001(a)(4)(A)
Washington	Offender regains the right to vote after completion of sentence, including parole and probation. However, voting rights may be revoked if the sentencing court determines that the person “willfully failed to comply with terms of order to pay legal financial obligations.”	Washington Revised Code §§ 29A.08.520, 9.94A.637, 9.92.066, 9.96.050, 9.96.020
West Virginia	Offender regains the right to vote after completion of prison, parole, and probation.	West Virginia Code §§ 3-1-3, 3-2-2
Wisconsin	Offender regains the right to vote after completion of prison, parole, and probation.	Wisconsin Statutes §§ 6.03(1)(b), 304.078(3)

## Appendix: Voting Laws for Former Felons, By State(cont.)

<b>VOTING RIGHTS RESTORED AFTER COMPLETION OF PRISON TIME AND PAROLE (PROBATIONERS CAN VOTE)</b>		
California	Offender loses right to vote only when imprisoned or on parole.	State Constitution Article II §§ 2, 4
Colorado	Offender loses right to vote only when imprisoned or on parole.	Colorado Revised Statutes § 1-2-103(4)
Connecticut	Offender loses right to vote only when imprisoned or on parole.	Connecticut General Statutes § 9-46a
New York	Offender loses right to vote only when imprisoned or on parole.	N.Y. Consolidated Election Law §§ 5-106, 5-400(1)(b)
<b>VOTING RIGHTS RESTORED AFTER COMPLETION OF SENTENCE (PAROLEES AND PROBATIONERS CAN VOTE)</b>		
District of Columbia	Rights restored after release from incarceration.	D.C. Constitution Article V, Section 1(d)
Hawaii	Rights restored after release from incarceration.	State Constitution Article II, Section 2
Illinois	Rights restored after release from incarceration.	Illinois Compiled Statutes 5/3-5
<b>VOTING RIGHTS RESTORED AFTER COMPLETION OF PRISON TIME (PAROLEES AND PROBATIONERS CAN VOTE)</b>		
Indiana	Offender loses right to vote only while in prison or “otherwise subject to lawful detention.”	State Constitution Article 2, Section 8; Indiana Code § 3-7-13-4 & -5
Massachusetts	Rights restored after release from incarceration.	Massachusetts General Laws Chapter 51, Section 1
Michigan	Rights restored after release from incarceration.	Michigan Compiled Laws 168.492a
Montana	Rights restored after release from incarceration.	Montana Code § 13-1-111(2)
New Hampshire	Rights restored after release from incarceration.	New Hampshire Revised Statutes §§ 607-A:2, 654:5
North Dakota	Rights restored after release from incarceration.	North Dakota Century Code §§ 16.1-01-04, 12.1-33-03.1
Ohio	Rights restored after release from incarceration.	Ohio Revised Code §§ 3503.21(A)(3), 2961.01(A)
Oregon	Rights restored after release from incarceration.	Oregon Revised States §§ 137.275, 137.281
Pennsylvania	Rights are restored on release from imprisonment; Pennsylvania statutes have a provision that says an offender can vote if he “has not been confined in a penal institution for a conviction of a felony within the last five years,” see 25 Pa. Cons. Stat. Ann. § 1301(a); however, a Pennsylvania court addressed a prior version of the statute with the same requirement and held that the prohibition against registration for five years after release from confinement violated Pennsylvania’s constitution. <i>Mixon v. Com. 759 A.2d 442, 452 (Pa. Cmwlth. 2000)</i> , aff’d 566 Pa. 616 (Pa. 2001).	25 Pa. Cons. Stat. Ann. § 1301(a) (as modified by <i>Mixon v. Com. 759 A.2d 442, 452 (Pa. Cmwlth. 2000)</i> , aff’d 566 Pa. 616 (Pa. 2001)
Rhode Island	Rights restored after release from incarceration.	Rhode Island General Laws § 17-9.2-3(a), (f)
Utah	Rights restored after release from incarceration.	Utah Code § 20A-2-101.5
<b>NO DISENFRANCHISEMENT FOR FELONY OFFENDERS</b>		
Maine	Eligibility to vote is not impacted by a felony conviction.	Maine Revised States Title 21-A, Chapter 3, Subchapter 2
Vermont	Eligibility to vote is not impacted by a felony conviction.	Vermont Statutes Title 17, Chapter 43, Subchapter 1

## Notes

1. See *Felon Voting: International Comparison of Felon Voting Laws*, ProCon.org, <http://felonvoting.procon.org/view.resource.php?resourceID=00289> (last updated Nov. 29, 2012) (describing which countries have prisoner and postrelease disenfranchisement laws); Brandon Rottinghaus, *Incarceration and Enfranchisement: International Practices, Impact and Recommendations for Reform 25* (June-July 2013), <https://www.procon.org/sourcefiles/RottinghausDisenfranchisement.pdf> (summarizing lengths of disenfranchisement periods for countries that disenfranchise felons).
2. *Disenfranchised Americans*, America Magazine (October 16, 2006), available at [http://www.americamagazine.org/content/article.cfm?article\\_id=5021](http://www.americamagazine.org/content/article.cfm?article_id=5021).
3. Ariz. Rev. Stat. § 13-905.
4. Md. Elec. Law § 3-102(b)(3)
5. Mo. Stat. § 561.026
6. N.J. Stat. § 19:34-25
7. N.J. Stat. § 19:34-46
8. Nev. Rev. Stat. §§ 213.090, 213.155, 213.157, 293.540
9. Wyo. Stat. § 7-13-105
10. Press Release, Governor Scott and Florida Cabinet Discuss Amended Rules of Executive Clemency (March 9, 2011), available at [http://felonvoting.procon.org/sourcefiles/florida\\_clemency\\_press\\_release.pdf](http://felonvoting.procon.org/sourcefiles/florida_clemency_press_release.pdf)
11. Marc Mauer & Tushar Kansal, *Barred for Life: Voting Rights Restoration in Permanent Disenfranchisement States* (February 2005), available at [www.sentencingproject.org/doc/publications/fd\\_barredforlife.pdf](http://www.sentencingproject.org/doc/publications/fd_barredforlife.pdf).
12. Neb. Rev. Stat. § 32-313. However, Nebraska excepts treason convictions, requiring individual re-enfranchisement by the government. *Id.*
13. *Richardson v. Ramirez*, 418 U.S. 24 (1974).
14. *Id.*
15. See, e.g., *Johnson v. Bush*, 405 F.3d 1214, 1225 (11th Cir. 2005); *Shepherd v. Trevino*, 575 F.2d 1110, 1115 (5th Cir. 1978); *Green v. Board of Elections of City of New York*, 380 F.2d 445, 451-52 (2d Cir. 1967); *Johnson v. Bredesen*, 579 F. Supp. 2d 1044, 1054 (M.D. Tenn. 2008); *Coronado v. Napolitano*, 2008 WL 191986, \*4 (D. Ariz. 2008); *Beachem v. Braterman*, 300 F. Supp. 182, 183-84 (S.D. Fla. 1969).
16. *Hunter v. Underwood*, 471 U.S. 222 (1985).
17. Ala. Code §§ 17-3-31, 15-22-36.1
18. Ariz. Rev. Stat. § 13-912 (first offense)
19. Ark. Const. amend. 51, § 11(d)(2)(B)
20. Conn. Gen. Stat. § 9-46a(a)
21. Office of the State Election Commissioner, *Voter Services: Registered Felons*, State of Delaware: The Official Website of the First State (last visited December 7, 2013), <http://elections.delaware.gov/services/voter/felons.shtml>
22. *Disenfranchised Americans*, America Magazine (October 16, 2006), available at [http://www.americamagazine.org/content/article.cfm?article\\_id=5021](http://www.americamagazine.org/content/article.cfm?article_id=5021).
23. See *Farrakhan v. Gregoire*, 623 F.3d 990 (9th Cir. 2010) (en banc); *Simmons v. Galvin*, 575 F.3d 24 (1st Cir. 2009); *Hayden v. Pataki*, 449 F.3d 305 (2d Cir. 2006) (en banc); *Johnson v. Governor of State of Fla.*, 405 F.3d 1214 (11th Cir. 2005) (en banc).
24. The Sentencing Project: Research and Advocacy for Reform, *Felon Disenfranchisement Laws in the United States* (last updated June 2013) [http://sentencingproject.org/doc/publications/fd\\_bs\\_fdlawsinus\\_Jun2013.pdf](http://sentencingproject.org/doc/publications/fd_bs_fdlawsinus_Jun2013.pdf).
25. The Sentencing Project: Research and Advocacy for Reform, *Felon Disenfranchisement Rates for Women* (March 2008), available at [http://www.sentencingproject.org/doc/publications/fd\\_bs\\_women.pdf](http://www.sentencingproject.org/doc/publications/fd_bs_women.pdf).
26. E. Ann Carson & William J. Sabol, *Prisoners in 2011*, U.S. Department of Justice 9 (Dec. 2012), available at <http://www.bjs.gov/content/pub/pdf/p11.pdf>.
27. Marc Mauer, *Disenfranchisement of Felons: The Modern Day Voting Rights Challenge*, C.R.J. 40 (2002).
28. Jeffrey Reiman, *Liberal and Republican Arguments Against the Disenfranchisement of Felons*, 24 Crim. Just. Ethics 3 (2005), available at [http://www.sentencingproject.org/doc/publications/fd\\_liberalrepublican\\_argum.pdf](http://www.sentencingproject.org/doc/publications/fd_liberalrepublican_argum.pdf).
29. *Id.*
30. Marc Mauer, *Disenfranchising Felons Hurts Entire Communities*, Focus, May/June 2004.
31. Brennan Center for Justice, *Voting Rights Restoration*, (February 2006), [http://www.brennancenter.org/page/-/download\\_file\\_9846.pdf](http://www.brennancenter.org/page/-/download_file_9846.pdf).
32. Matthew Cardinale, *Triple-Decker Disenfranchisement: First-Person Accounts of Losing the Right to Vote among Poor, Homeless Americans with a Felony Conviction*, (November 2004), available at [http://www.sentencingproject.org/doc/publications/fd\\_triple-decker.pdf](http://www.sentencingproject.org/doc/publications/fd_triple-decker.pdf).
33. *Id.*
34. Marc Mauer & Tushar Kansal, *Barred for Life: Voting Rights Restoration in Permanent Disenfranchisement States* (February 2005), available at [http://www.sentencingproject.org/doc/publications/fd\\_barredforlife.pdf](http://www.sentencingproject.org/doc/publications/fd_barredforlife.pdf).
35. Brennan Center for Justice & Demos, *Boards of Election Continue Illegally To Disenfranchise Voters With Felony Convictions* (Mar. 2006), [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_34665.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_34665.pdf).
36. *Felon Disenfranchisement Laws in the United States*, Sentencing Project (June 2013), [http://www.sentencingproject.org/doc/publications/fd\\_bs\\_fdlawsinus\\_Jun2013.pdf](http://www.sentencingproject.org/doc/publications/fd_bs_fdlawsinus_Jun2013.pdf)
37. *Id.*
38. Brennan Center for Justice, *Voting Rights Restoration Efforts in Rhode Island*, (Jan. 13, 2008), <http://www.brennancenter.org/analysis/voting-rights-restoration-efforts-rhode-island>; see also R.I. Gen. Laws § 17-9.2-3.
39. See *Felon Disenfranchisement Laws*, supra note 36.
40. *May v. Carlton*, 245 S.W.3d 340 (Tenn. 2008).
41. See *Felon Disenfranchisement Laws*, supra note 36.
42. Virginia Constitution art. II, § 1; Virginia Code §§ 24.2-101, 53.1-231.2; Letter from Governor McDonnell to Secretary of Commonwealth Kelly Regarding Restoration of Voting Rights for Nonviolent Felons (May 29, 2013), <http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/2013GovernorLettertoSOC.pdf>
43. Delaware Constitution art. V, § 2 (as amended by 79 Delaware Laws 2013, ch. 34 § 1 (effective May 28, 2013)).
44. See Iowa Exec. Order No. 70 (2011), available at [https://governor.iowa.gov/wp-content/uploads/2011/03/Exec\\_Order\\_70.pdf](https://governor.iowa.gov/wp-content/uploads/2011/03/Exec_Order_70.pdf).
45. Dara Kam, Scott, Cabinet make felons wait for return of rights; critics call it return to Jim Crow era, Palm Beach Post (March 9, 2011), available at <http://www.palm-beachpost.com/news/news/state-regional/scott-cabinet-make-felons-wait-for-return-of-right/nLqhy>; Florida Rules of Executive Clemency §§ 4(G), 6, 9, 10, available at [https://fpc.state.fl.us/PDFs/clemency\\_rules.pdf](https://fpc.state.fl.us/PDFs/clemency_rules.pdf).
46. South Dakota Legislature 2012 Session – Bill History: House Bill 1247, <http://legis.state.sd.us/sessions/2012/Bill.aspx?Bill=1247> (last visited Oct. 28, 2013); South Dakota Codified Laws § 12-4-18.
47. Democracy Restoration Act, Brennan Center for Justice, <http://www.brennancenter.org/legislation/democracy-restoration-act> (last updated Dec. 20, 2011).
48. While the Democracy Restoration Act has not been reintroduced in the 113th Congress as of this writing, a major policy speech by Attorney General Eric Holder decrying felon disenfranchisement policies, as well as vigorous public statements by Senator Rand Paul (R-KY) may well induce its champions to try again.
49. See Letter in Support of the Democracy Restoration Act [bill numbers omitted] from Law Enforcement and Criminal Justice Leaders, [http://www.brennancenter.org/page/-/Democracy/DRA - Law Enforcement CJ Sign on Letter FINAL.pdf](http://www.brennancenter.org/page/-/Democracy/DRA-Law%20Enforcement%20CJ%20Sign%20on%20Letter%20FINAL.pdf).
50. Law Enforcement & Criminal Justice Advisory Council, Brennan Center for Justice, [http://betterballotactionproject.org/content/pages/law\\_enforcement\\_criminal\\_justice\\_advisory\\_council](http://betterballotactionproject.org/content/pages/law_enforcement_criminal_justice_advisory_council) (last visited Oct. 22, 2013); see also Democracy Restoration Act: Support for the DRA, Brennan Center for Justice (last updated Dec. 20, 2011), <http://www.brennancenter.org/legislation/democracy-restoration-act-Support>
51. Restoring the Right to Vote, Brennan Center for Justice 17 (May 11, 2009), <http://www.brennancenter.org/publication/restoring-right-vote>
52. Committee on the Elimination of Racial Discrimination, Consideration of Reports Submitted by States Parties Under Article 9 of the Convention: Concluding Observations of the Committee on the Elimination of Racial Discrimination: United States of America, United Nations (May 8, 2008), available at <http://www.state.gov/documents/organization/107361.pdf>.

## About the Author

**Estelle H. Rogers** is Project Vote's Legislative Director. In this position, she coordinates the organization's policy work on both state and federal levels, including interacting directly with legislators and staff, writing testimony and public education materials, and building coalitions with other organizations. She is the co-author of a chapter in the 2012 publication, *America Votes*, 2nd ed., a publication of the American Bar Association. Among her other publications are two law review articles and a chapter in the book *Changing America*, a 1992 publication presenting a comprehensive policy agenda to the incoming Clinton administration.

## About Project Vote

**Project Vote is a national nonpartisan, non-profit organization that promotes voting in historically underrepresented communities. Project Vote takes a leadership role in nationwide voting rights and election administration issues, working through research, litigation, and advocacy to ensure that our constituencies can register, vote, and cast ballots that count.**

## Disclaimer

The information contained in this document is for general guidance only. It should not be used as a substitute for consultation with professional legal or other competent advisers. Project Vote is not responsible for any errors or omissions, or for the results obtained from the use of this information.

*©2014 by Project Vote. This paper is covered by Creative Commons "Attribution-NonCommercial-ShareAlike" license. (See <http://creativecommons.org>.) This work may be reproduced in whole or in part for non-commercial use. Reproduction or adaptation must attribute Project Vote, and must bear the Creative Commons "Attribution-NonCommercial-ShareAlike" license. Please notify Project Vote if reproducing or adapting this work.*

*"Project Vote" is a trademark of Project Vote, and registered in the U.S. Patent and Trademark Office. The Project Vote logo is a trademark or common law mark of Project Vote.*